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*Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, SCHEDULE 4. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 4

Section 18.

#### FURTHER PROVISIONS WITH RESPECT TO SHARED OWNERSHIP LEASES

##### *The Rent Act 1977 (c. 42)*

- 1 (1) Part I of the Rent Act 1977 (preliminary provisions) is amended as follows.
- (2) After section 5 insert—

##### **“5A Certain shared ownership leases.**

- (1) A tenancy is not a protected tenancy if it is a qualifying shared ownership lease, that is—
- (a) a lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act 1985, or
  - (b) a lease granted by a housing association and which complies with the conditions set out in subsection (2) below.
- (2) The conditions referred to in subsection (1)(b) above are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the dwelling-house or the cost of providing it, of not less than 25 per cent., or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the dwelling-house on terms specified in the lease and complying with such requirements as may be prescribed;
  - (d) does not restrict the tenant’s powers to assign, mortgage or charge his interest in the dwelling-house;
  - (e) if it enables the landlord to require payment for outstanding shares in the dwelling-house, does so only in such circumstances as may be prescribed;
  - (f) provides, in the case of a house, for the tenant to acquire the landlord’s interest on terms specified in the lease and complying with such requirements as may be prescribed; and
  - (g) states the landlord’s opinion that by virtue of this section the lease is excluded from the operation of this Act.
- (3) The Secretary of State may by regulations prescribe anything requiring to be prescribed for the purposes of subsection (2) above.
- (4) The regulations may—

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- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
- (b) contain such incidental, supplementary or transitional provisions as the Secretary of State considers appropriate,
- and shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In any proceedings the court may, if of opinion that it is just and equitable to do so, treat a lease as a qualifying shared ownership lease notwithstanding that the condition specified in subsection (2)(g) above is not satisfied.
- (6) In this section—
- “house” has the same meaning as in Part I of the Leasehold Reform Act 1967;
- “housing association” has the same meaning as in the Housing Associations Act 1985; and
- “lease” includes an agreement for a lease, and references to the grant of a lease shall be construed accordingly.”.

(3) ..... F1

**Textual Amendments**

**F1** Sch. 4 para. 1(3) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#)

*The Rent (Agriculture) Act 1976 (c. 80)*

- 2 In Schedule 2 to the Rent (Agriculture) Act 1976 (licences and tenancies giving rise to protected occupancy), in paragraph 3 (adaptation of provisions of Rent Act 1977 as they apply for the purposes of the 1976 Act), after sub-paragraph (2) insert—
- “(2A) In section 5A (exclusion of certain shared ownership leases), in subsection (2)(g) (condition that lease states landlord’s opinion that 1977 Act does not apply) for the reference to the 1977 Act substitute a reference to this Act.”.

*Part I of the Leasehold Reform Act 1967 (c. 88)*

- 3 In section 1 of the Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension), after subsection (1) insert—
- “(1A) The references in subsection (1)(a) and (b) to a long tenancy at a low rent do not include a tenancy excluded from the operation of this Part by section 33A of and Schedule 4A to this Act.”.
- 4 In section 3(2) of the Leasehold Reform Act 1967 after “long tenancy at a low rent” insert “(other than a lease excluded from the operation of this Part by section 33A of and Schedule 4A to this Act)”.
- 5 After section 33 of the Leasehold Reform Act 1967 insert—

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**“33A Exclusion of certain shared ownership leases.**

The provisions of Schedule 4A to this Act shall have effect to exclude certain shared ownership leases from the operation of this Part of this Act”.

6 After Schedule 4 to the Leasehold Reform Act 1967 insert—

“SCHEDULE  
4A

EXCLUSION OF CERTAIN SHARED OWNERSHIP LEASES

*Leases granted in pursuance of right to be granted a shared ownership lease*

- 1 A lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act 1985 is excluded from the operation of this Part of this Act.

*Certain leases granted by certain public authorities*

- 2 (1) A lease which—
- (a) was granted at a premium by a body mentioned in sub-paragraph (2), and
  - (b) complies with the conditions set out in sub-paragraph (3),
- is excluded from the operation of this Part at any time when the interest of the landlord belongs to such a body.
- (2) The bodies are—
- (a) a county, district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) the Inner London Education Authority or a joint authority established by Part IV of the Local Government Act 1985;
  - (c) the Commission for the New Towns or a development corporation established by an order made, or having effect as made, under the New Towns Act 1981;
  - (d) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act 1980;
  - (e) the Development Board for Rural Wales;
- (3) The conditions are that the lease—
- (a) provides for the tenant to acquire the freehold for a consideration which is to be calculated in accordance with the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease, and
  - (b) states the landlord’s opinion that by virtue of this paragraph the tenancy will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a body mentioned in sub-paragraph (2) above.
- (4) If, in proceedings in which it falls to be determined whether a lease complies with the condition in sub-paragraph (3)(a), the question arises whether the

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consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.

*Certain leases granted by housing associations*

- 3 (1) A lease granted by a housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act, whether or not the interest of the landlord still belongs to such an association.
- (2) The conditions are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
  - (d) does not restrict the tenant's powers to assign, mortgage or charge his interest in the house;
  - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
  - (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
  - (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if of the opinion that it is just and equitable to do so, treat a lease as satisfying the conditions in sub-paragraph (2) notwithstanding that the condition specified in paragraph (g) of that sub-paragraph is not satisfied.
- (4) In this paragraph "housing association" has the same meaning as in the Housing Associations Act 1985.
- 4 (1) A lease for the elderly granted by a registered housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to such an association.
- (2) The conditions are that the lease—
- (a) is granted at a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it,
  - (b) complies, at the time when it is granted, with such requirements as may be prescribed, and
  - (c) states the landlord's opinion that by virtue of this paragraph the lease will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a registered housing association.

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- (3) In this paragraph—  
“lease for the elderly” has such meaning as may be prescribed;  
and  
“registered housing association” has the same meaning as in the Housing Associations Act 1985.

*Power to prescribe matters by regulations*

- 5 (1) The Secretary of State may by regulations prescribe anything requiring to be prescribed for the purposes of this Schedule.
- (2) The regulations may—
- (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
  - (b) contain such incidental, supplementary or transitional provisions as the Secretary of State considers appropriate,
- and shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation*

- 6 In this Schedule “lease” means a lease at law or in equity, and references to the grant of a lease shall be construed accordingly”.

*Consequential amendments and repeals*

- 7 In the Housing Act 1980, omit section 140.
- 8 In the Local Government, Planning and Land Act 1980, omit section 156(3).
- 9 (1) The Local Government Act 1985 is amended as follows.
- (2) In Schedule 13 (application of local authority provisions to residuary bodies), in paragraph 14, after sub-paragraph (a) insert—
- “(aa) paragraph 2 of Schedule 4A to the Leasehold Reform Act 1967;” and at the end of sub-paragraph (b) insert “and” and omit sub-paragraph (d) and the word “and” preceding it.
- (3) In Schedule 14, omit paragraph 58(e).
- 10 In Part IV of the Housing Act 1985 (secure tenancies), in section 115 (meaning of “long tenancy”), in subsection (2)(c) after “1980” insert “or paragraph 3(2)(b) of Schedule 4A to the Leasehold Reform Act 1967”.

*Transitional provisions and savings*

- 11 (1) The amendments made by this Schedule apply only in relation to leases granted after the commencement of this Schedule.
- (2) This Schedule does not affect the operation of section 140 of the Housing Act 1980, the enactments applying that section and regulations made under it, in relation to leases granted before the commencement of this Schedule.

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