

SCHEDULES

SCHEDULE 13

Section 56.

PREMIUM AND OTHER AMOUNTS PAYABLE BY TENANT ON GRANT OF NEW LEASE

PART I

GENERAL

- 1 In this Schedule—
- “intermediate leasehold interest” means the interest of any person falling within section 40(4)(c), to the extent that it is an interest in the tenant’s flat subsisting immediately before the grant of the new lease;
- “the valuation date” means the date when all of the terms of acquisition (apart from those relating to the premium and any other amounts payable by virtue of this Schedule in connection with the grant of the new lease) have been determined either by agreement or by a leasehold valuation tribunal under this Chapter.

PART II

PREMIUM PAYABLE IN RESPECT OF GRANT OF NEW LEASE

Premium payable by tenant

- 2 The premium payable by the tenant in respect of the grant of the new lease shall be the aggregate of—
- the diminution in value of the landlord’s interest in the tenant’s flat as determined in accordance with paragraph 3,
 - the landlord’s share of the marriage value as determined in accordance with paragraph 4, and
 - any amount of compensation payable to the landlord under paragraph 5.

Diminution in value of landlord’s interest

- 3 (1) The diminution in value of the landlord’s interest is the difference between—
- the value of the landlord’s interest in the tenant’s flat prior to the grant of the new lease; and
 - the value of his interest in the flat once the new lease is granted.
- (2) Subject to the provisions of this paragraph, the value of any such interest of the landlord as is mentioned in sub-paragraph (1)(a) or (b) is the amount which at the valuation date that interest might be expected to realise if sold on the open market

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by a willing seller (with the tenant not buying or seeking to buy) on the following assumptions—

- (a) on the assumption that the vendor is selling for an estate in fee simple or (as the case may be) such other interest as is held by the landlord, subject to the relevant lease and any intermediate leasehold interests;
 - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
 - (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
 - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the relevant lease has effect or (as the case may be) is to be granted.
- (3) In sub-paragraph (2) “the relevant lease” means either the tenant's existing lease or the new lease, depending on whether the valuation is for the purposes of paragraph (a) or paragraph (b) of sub-paragraph (1).
- (4) It is hereby declared that the fact that sub-paragraph (2) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date any such interest of the landlord as is mentioned in sub-paragraph (1)(a) or (b) might be expected to realise if sold as mentioned in sub-paragraph (2).
- (5) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (6) The value of any such interest of the landlord as is mentioned in sub-paragraph (1) (a) or (b) shall not be increased by reason of—
- (a) any transaction which—
 - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by the tenant; or
 - (b) any alteration on or after that date of the terms on which any such superior interest is held.

Landlord's share of marriage value

- 4 (1) The marriage value is the amount referred to in sub-paragraph (2), and the landlord's share of the marriage value is—
- (a) such proportion of that amount as is determined by agreement between the landlord and the tenant or, in default of agreement, as is determined by a leasehold valuation tribunal to be the proportion which in its opinion would have been determined by an agreement made at the valuation date between the parties on a sale on the open market by a willing seller, or
 - (b) 50 per cent. of that amount,
- whichever is the greater.

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- (2) The marriage value is the difference between the following amounts, namely—
- (a) the aggregate of—
 - (i) the value of the interest of the tenant under his existing lease,
 - (ii) the value of the landlord’s interest in the tenant’s flat prior to the grant of the new lease, and
 - (iii) the values prior to the grant of that lease of all intermediate leasehold interests (if any); and
 - (b) the aggregate of—
 - (i) the value of the interest to be held by the tenant under the new lease,
 - (ii) the value of the landlord’s interest in the tenant’s flat once the new lease is granted, and
 - (iii) the values of all intermediate leasehold interests (if any) once that lease is granted.
- (3) For the purposes of sub-paragraph (2)—
- (a) the value of any interest of the tenant shall be determined as at the valuation date;
 - (b) the value of any such interest of the landlord as is mentioned in paragraph (a) or paragraph (b) of that sub-paragraph is the amount determined for the purposes of paragraph 3(1)(a) or paragraph 3(1)(b) (as the case may be); and
 - (c) the value of any intermediate leasehold interest shall be determined in accordance with paragraph 8, and shall be so determined as at the valuation date.

Compensation for loss arising out of grant of new lease

- 5 (1) Where the landlord will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
- (a) any diminution in value of any interest of the landlord in any property other than the tenant’s flat which results from the grant to the tenant of the new lease; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to the landlord’s ownership of any such interest.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the tenant’s flat to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) “development value”, in relation to the tenant’s flat, means any increase in the value of the landlord’s interest in the flat which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction affecting, the flat (whether together with any other premises or otherwise).

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PART III

AMOUNTS PAYABLE TO OWNERS OF INTERMEDIATE LEASEHOLD INTERESTS

Amount payable to owner of intermediate interest

- 6 In connection with the grant of the new lease to the tenant there shall be payable by the tenant to the owner of any intermediate leasehold interest an amount which is the aggregate of—
- (a) the diminution in value of that interest as determined in accordance with paragraph 7; and
 - (b) any amount of compensation payable to him under paragraph 9.

Diminution in value of intermediate interest

- 7 (1) The diminution in value of any intermediate leasehold interest is the difference between—
- (a) the value of that interest prior to the grant of the new lease; and
 - (b) the value of that interest once the new lease is granted.
- (2) Each of those values shall be determined, as at the valuation date, in accordance with paragraph 8.

Value of intermediate interests

- 8 (1) Subject to sub-paragraph (2), paragraph 3(2) to (6) shall apply for determining the value of any intermediate leasehold interest for the purposes of any provision of this Schedule with such modifications as are appropriate to relate those provisions of paragraph 3 to a sale of the interest in question subject to the tenant's lease for the time being and to any leases intermediate between the interest in question and that lease.
- (2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease shall be calculated by applying the formula set out in sub-paragraph (6) instead of in accordance with sub-paragraph (1).
- (3) "A minor intermediate lease" means a lease complying with the following requirements, namely—
- (a) it must have an expectation of possession of not more than one month, and
 - (b) the profit rent in respect of the lease must be not more than £5 per year.
- (4) "Profit rent" means an amount equal to that of the rent payable under the lease on which the minor intermediate lease is in immediate reversion, less that of the rent payable under the minor intermediate lease.
- (5) Where the minor intermediate lease or that on which it is in immediate reversion comprises property other than the tenant's flat, then in sub-paragraph (4) the reference to the rent payable under it means so much of that rent as is apportioned to that flat.
- (6) The formula is—

$$P = \pounds \frac{R}{Y} - \frac{R}{Y(1 + Y)^n}$$

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where—

- P = the price payable;
- R = the profit rent;
- Y = the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;
- n = the period, expressed in years (taking any part of a year as a whole year), of the remainder of the term of the minor intermediate lease as at the valuation date.

- (7) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the valuation date.
- (8) For the purposes of this paragraph the expectation of possession carried by a lease is the expectation which it carries at the valuation date of possession after the tenant's lease, on the basis that—
 - (a) (subject to sub-paragraph (9)) the tenant's lease terminates at the valuation date if its term date fell before then, or else it terminates on its term date; and
 - (b) any other lease terminates on its term date.
- (9) In a case where before the relevant date for the purposes of this Chapter the immediate landlord of the tenant had given notice to quit terminating the tenant's lease on a date earlier than that date, the date specified in the notice to quit shall be substituted for the date specified in sub-paragraph (8)(a) above.

Compensation for loss arising out of grant of new lease

- 9 Paragraph 5 shall apply in relation to the owner of any intermediate leasehold interest as it applies in relation to the landlord.

Owners of intermediate interests entitled to part of marriage value

- 10 (1) This paragraph applies in a case where—
 - (a) the premium payable by the tenant in respect of the grant of the new lease includes an amount in respect of the landlord's share of the marriage value, and
 - (b) there are any intermediate leasehold interests.
- (2) The amount payable to the landlord in respect of his share of the marriage value shall be divided between the landlord and the owners of any such intermediate interests in proportion to the amounts by which the values of their respective interests in the flat will be diminished in consequence of the grant of the new lease.
- (3) For the purposes of sub-paragraph (2)—
 - (a) the amount by which the value of the landlord's interest in the flat will be so diminished is the diminution in value of that interest as determined for the purposes of paragraph 2(a); and
 - (b) the amount by which the value of any intermediate leasehold interest will be so diminished is the diminution in value of that interest as determined for the purposes of paragraph 6(a).
- (4) Where the owner of any intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the landlord in respect of the

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landlord's share of the marriage value, the amount to which he is so entitled shall be payable to him by the landlord.