

SCHEDULES

SCHEDULE 9

Section 106.

LOW RENT TEST: EXTENSION OF RIGHTS

Right to enfranchisement

1 In the Leasehold Reform Act 1967, after section 1A there shall be inserted—

“1AA Additional right to enfranchisement only in case of houses whose rent exceeds applicable limit under section 4

(1) Where—

- (a) section 1(1) above would apply in the case of the tenant of a house but for the fact that the tenancy is not a tenancy at a low rent, and
- (b) the tenancy falls within subsection (2) below and is not an excluded tenancy,

this Part of this Act shall have effect to confer on the tenant the same right to acquire the freehold of the house and premises as would be conferred by section 1(1) above if it were a tenancy at a low rent.

(2) A tenancy falls within this subsection if—

- (a) it is granted for a term of years certain exceeding thirty-five years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
- (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a tenancy which falls within this subsection,
- (c) it is a tenancy taking effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage), or
- (d) it is a tenancy which—
 - (i) is or has been granted for a term of years certain not exceeding thirty-five years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
 - (ii) is or has been once or more renewed so as to bring to more than thirty-five years the total of the terms granted (including any interval between the end of a tenancy and the grant of a renewal).

(3) A tenancy is an excluded tenancy for the purposes of subsection (1) above if—

- (a) the house which the tenant occupies under the tenancy is in an area designated for the purposes of this provision as a rural area by order made by the Secretary of State,

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- (b) the freehold of that house is owned together with adjoining land which is not occupied for residential purposes and has been owned together with such land since the coming into force of section 106 of the Housing Act 1996, and
 - (c) the tenancy was granted on or before the day on which that section came into force.
- (4) Where this Part of this Act applies as if there were a single tenancy of property comprised in two or more separate tenancies, then, if each of the separate tenancies falls within subsection (2) above, this section shall apply as if the single tenancy did so.
- (5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 2 (1) In consequence of paragraph 1 above, the Leasehold Reform Act 1967 shall be amended as follows.
- (2) In section 1(3A)(b) (extension of rights not to apply to existing lettings by charitable housing trusts), after “1A” there shall be inserted “, 1AA”.
- (3) In section 3(3) (provision for aggregation of successive tenancies), after “this Part of this Act” there shall be inserted “, except section 1AA,”.
- (4) In section 9(1C) (price payable by tenant on enfranchisement by virtue of section 1A or 1B), after “1A” there shall be inserted “, 1AA”.
- (5) In section 9A(1) (compensation payable where right to enfranchisement arises by virtue of section 1A or 1B), after “1A” there shall be inserted “, 1AA”.
- (6) In section 32A(1)(b) (extensions to right to enfranchisement not to apply in relation to existing tenancies of property transferred for public benefit), at the end there shall be inserted “or if section 1AA above were not in force”.
- (7) In section 37(4) (treatment for the purposes of Part I of tenancy granted to continue as a periodical tenancy after the expiration of a term of years certain), after “this Part of this Act” there shall be inserted “, except section 1AA,”.
- (8) In Part II of Schedule 3 (procedural provisions), in paragraph 6 (which makes provision about the contents of a tenant’s notice under Part I), after sub-paragraph (1) there shall be inserted—
- “(1A) Where the tenant gives the notice by virtue of section 1AA of this Act, sub-paragraph (1) above shall have effect with the substitution for paragraph (b) of—
- “(b) such particulars of the tenancy as serve to identify the instrument creating the tenancy and show that the tenancy is one in relation to which section 1AA(1) of this Act has effect to confer a right to acquire the freehold of the house and premises;”
- (9) In that Part of that Schedule, in paragraph 7(4) (admission in landlord’s notice of tenant’s right to have freehold to be binding on landlord, so far as relating to matters mentioned in section 1(1)(a) and (b)), for “mentioned in section 1(1)(a) and (b) of this Act” there shall be substituted “relevant to the existence of that right”.

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Right to collective enfranchisement

- 3 (1) Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 (collective enfranchisement in case of tenants of flats) shall be amended as follows.
- (2) Section 5 (qualifying tenants) shall be amended as follows—
- (a) in subsection (1) (which defines a qualifying tenant as a tenant of a flat under a long lease at a low rent), for “at a low rent” there shall be substituted “which is at a low rent or for a particularly long term”, and
 - (b) in subsection (2)(c) (which excludes from the definition a tenant under a lease granted in breach of the terms of a superior lease which is not a long lease at a low rent), after “rent” there shall be inserted “or for a particularly long term”.
- (3) After section 8 there shall be inserted—

“8A Meaning of “particularly long term”

- (1) For the purposes of this Chapter a long lease is for a particularly long term if—
- (a) it is granted for a term of years certain exceeding 35 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
 - (b) it is for a term fixed by law under a grant with a covenant or obligation for perpetual renewal (other than a lease by sub-demise from one which is not for a particularly long term),
 - (c) it takes effect under section 149(6) of the Law of Property Act 1925 (leases terminable after a death or marriage), or
 - (d) it is a lease which—
 - (i) is or has been granted for a term of years certain not exceeding 35 years, but with a covenant or obligation for renewal without payment of a premium (but not for perpetual renewal), and
 - (ii) is or has been renewed on one or more occasions so as to bring to more than 35 years the total of the terms granted (including any interval between the end of a lease and the grant of a renewal).
- (2) A long lease which does not fall within subsection (1) above shall nonetheless be treated for the purposes of this Chapter as being for a particularly long term if it is a long lease by virtue of paragraph (c) or (d) of section 7(1).
- (3) Where this Chapter applies as if there were a single lease of property comprised in two or more separate leases, then, if each of the separate leases is for a particularly long term, this Chapter shall apply as if the single lease were for such a term.”
- (4) In section 13(3)(e) (particulars to be included in initial notice which relevant to whether person a qualifying tenant), in sub-paragraph (ii), for “a lease at a low rent” there shall be substituted “at a low rent or for a particularly long term”.

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Right to new lease

- 4 (1) Chapter II of that Part (individual right of tenant of flat to acquire new lease) shall be amended as follows.
- (2) In section 39(3) (provisions of Chapter I which apply for the purposes of Chapter II), at the end of paragraph (c) there shall be inserted “, and
(d) section 8A,”
- (3) In section 42(3) (particulars to be included in notice by qualifying tenant of claim to exercise right), in paragraph (b)(iii), there shall be inserted at the end “or, in accordance with section 8A (as that section so applies), a lease for a particularly long term”.
- 5 (1) In Chapter VII of that Part (general), section 94 (Crown land) shall be amended as follows.
- (2) In subsection (3) (disapplication of restriction imposed by section 3(2) of the Crown Estate Act 1961 on term for which lease may be granted by Crown Estate Commissioners), in paragraph (a), for “at a low rent” there shall be substituted “which is at a low rent or for a particularly long term”.
- (3) In subsection (4) (power to shadow statutory rights), for “at a low rent” there shall be substituted “which is at a low rent or for a particularly long term”.
- (4) For subsection (12) there shall be substituted—
- “(12) For the purposes of this section “long lease which is at a low rent or for a particularly long term” shall be construed in accordance with sections 7, 8 and 8A.”