

SCHEDULE 1

MODIFICATIONS TO PART V AS APPLIED TO THE PRESERVED RIGHT TO BUY

PART II

SCHEDULES TO BE INSERTED AFTER SCHEDULES 5 AND 6

1. After Schedule 5 insert the following Schedule—

“SCHEDULE 5A

Section 13.

LIMITS ON AMOUNT OF DISCOUNTRELEVANT COSTS

Introductory

1. In this Schedule—

“cost floor” means the amount mentioned in paragraph (a) of section 131 (limits on amount of discount), and

“relevant costs” means costs to be taken into account for the purposes of paragraph (a) of section 131.

Relevant costs and relevant works

2. Costs shall be treated as relevant costs if, and only to the extent that, they are not administrative costs or interest.

3. Works of improvement to a dwelling-house are relevant works but works of repair or maintenance or works to deal with any defect affecting the dwelling-house are not relevant works.

4. Costs incurred on any relevant works shall not be treated as relevant costs if payment for them is made on or after the date of service of the qualifying person’s notice under section 122 (notice claiming to exercise right to buy) unless—

- (a) the landlord has before that date entered into a written contract for the carrying out of the works; or
- (b) the qualifying person has agreed in writing to the carrying out of the works and either the works have been carried out not later than the date of service of the landlord’s notice under section 125 (notice of purchase price etc.), or the works will be carried out under the proposed terms of the conveyance or grant.

Ascertainment of cost floor

5.—(1) The cost floor is an amount equal to the aggregate of the costs which under subparagraph (2) may be treated as relevant costs.

(2) The costs which may be treated as relevant costs are the costs incurred by the landlord in respect of—

- (a) the acquisition of the dwelling-house, or
- (b) the construction of the dwelling-house (including development works and the acquisition of land), and
- (c) relevant works to the dwelling-house.

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(3) Where the landlord has previously disposed of the dwelling-house and has subsequently re-acquired it in circumstances in which discount was recovered in whole or part, only the costs of re-acquisition net of any discount recovered shall be taken into account for the purposes of sub-paragraph (2)(a).

Estimates

6. An estimate may be made for the purposes of arriving at the cost floor for a dwelling-house where the amount of any relevant costs or payments for them cannot readily be ascertained. Companies

7.—(1) In a case where a landlord is a company, references to the landlord in paragraphs 4(a) and 5(2) include references to a connected company.

(2) For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985(1).”

2. In place of Schedule 7 insert the following Schedule—

“SCHEDULE 7A

Section 142(1).

RECKONABLE AMOUNT OF QUALIFYING PERSON FOR PURPOSES OF RIGHT TO DEFER COMPLETION

Introductory

1. This Schedule has effect with respect to the calculation of a qualifying person’s reckonable amount for the purpose of ascertaining whether he is entitled to defer completion.

2. In this Schedule—

“admissible source” means a source of income of the qualifying person which is to be taken into account for the purposes of this Schedule; and

“qualifying person” means a person who is exercising the preserved right to buy.

Reckonable amount

3. The qualifying person’s reckonable amount for the purposes of section 142 (deferment of completion) is to be calculated by taking the amount which, in accordance with paragraphs 4 to 7, is his annual income and multiplying it by such factor as, under paragraph 10, is appropriate to the case.

Income from employment

4.—(1) This paragraph applies to income from an employment.

(2) The amount to be taken into account as income to which this paragraph applies is the qualifying person’s current annual pay, namely his current pay expressed as an annual amount or, where that amount does not fairly represent his current annual pay, such amount as does.

(3) In this paragraph—

“employment” includes a part-time employment and an office but does not include a casual or temporary employment; and

(1) 1985 c. 6.

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“pay” includes any commission, bonus, allowance (but not an expense allowance), tip, gratuity or other payment made to the qualifying person in connection with his employment but does not include any benefit in kind; and references to pay are references to it before any statutory or other deduction has been made.

Income from a business

5.—(1) This paragraph applies to income from a business carried on by the qualifying person (whether or not with any other person).

(2) The amount to be taken into account as the qualifying person’s annual income from the business is an amount which, having regard to the latest available information, fairly represents the current annual net profit of the business or, if the qualifying person shares the net profit with any other person, his share of the net profit.

(3) In this paragraph “business” includes any trade, profession or vocation.

Other income

6.—(1) This paragraph applies to income from a source to which paragraphs 4 and 5 do not apply.

(2) No account shall be taken of state benefits other than benefits under—

- (a) sections 36 and 37 of the National Insurance Act 1965(2) (graduated retirement benefits);
- (b) sections 27, 28, 29, 39 and 40 of the Social Security Act 1975(3) (retirement pensions); and
- (c) sections 6, 7 and 8 of the Social Security Pensions Act 1975(4) (state earnings related pensions).

(3) The amount to be taken into account as the qualifying person’s annual income from a source to which this paragraph applies, which is not excluded from account by sub-paragraph (2), is an amount which before any statutory or other deduction represents the qualifying person’s current income from that source expressed as an annual amount.

(4) In this paragraph “state benefits” means any benefits under the Family Income Supplements Act 1970(5), the Social Security Acts 1975 to 1985(6), the Child Benefit Act 1975(7) and the Supplementary Benefits Act 1976(8).

Income from more than one source

7. If the qualifying person has income from more than one admissible source, the amount to be taken into account as his annual income shall be the total amount of his annual income from all admissible sources determined in accordance with the provisions of this Schedule.

(2) 1965 c. 51, as continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).

(3) 1975 c. 14.

(4) 1975 c. 60.

(5) 1970 c. 55.

(6) 1975 c. 14, 1975 c. 60, 1977 c. 5, 1979 c. 18, 1980 c. 30, 1980 c. 39, 1981 c. 33, 1982 c. 24, 1984 c. 48, 1985 c. 53.

(7) 1975 c. 61.

(8) 1976 c. 71.

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Estimates

8. The landlord may accept any estimate for the purposes of paragraphs 4 to 6.

Joint tenants

9. Where the right to buy is being exercised by more than one qualifying person, the preceding provisions of this Schedule shall be applied separately to determine the amount of each person’s annual income.

Multipliers

10.—(1) This paragraph specifies the appropriate factor to be applied as a multiplier of the qualifying person’s annual income to arrive at his reckonable amount.

(2) If the qualifying person’s income is the principal income, the appropriate factor in relation to his annual income is the multiplier shown in the following Table corresponding to his age on the date of service of the notice under section 122 claiming to exercise the right to buy.

TABLE

Qualifying person’s age on the date of service of the notice	Multiplier
Under 60	2.5
60 and over but under 65	2.0
65 and over	1.0

(3) If the qualifying person’s income is not the principal income, the appropriate factor in relation to his annual income is 1.

(4) Subject to sub-paragraph (5), the qualifying person’s income is the principal income for the purposes of this paragraph if—

- (a) he is the only qualifying person with annual income, or
- (b) there is more than one qualifying person with annual income and the amount of his annual income is larger than that of the other qualifying person or, as the case may be, of any of the other qualifying persons, or
- (c) in a case to which paragraph (b) applies, the landlord agrees to treat the qualifying person’s income as the principal income, despite the fact that the amount of the annual income of another qualifying person is larger than his.

(5) The income of only one qualifying person shall be treated as the principal income for the purposes of this paragraph.”.