

SCHEDULE 1

Regulation 2(1)

MODIFICATIONS TO PART V OF THE HOUSING ACT 1985

PART I

EXCEPTIONS AND ADAPTATIONS

1.—(1) Subject to the following provisions of this paragraph, in the provisions of Part V, for the expression “secure tenant” and “tenant” substitute the expression “qualifying person”.

(2) Sub-paragraph (1) does not apply—

(a) to the references to secure tenant in—

section 171A(1),
section 185, and
Schedule 9A(2), paragraph 1;

(b) to the references to tenant in—

section 125A(2)(b), (3)(a)(3),
section 125B(4),
section 138(2) (second reference only),
section 158(1),
section 171B(5),
section 171H(1)(6),
section 175(1)(7),
section 187(8), the definition of “improvement contribution”,
Schedule 4, paragraphs 2 (the final word only), 6(1), 9 and 10,
Schedule 6, Part III(9), and
Schedule 9A, paragraph 7(3);

(c) to the expressions “former secure tenant”, “joint tenant”, “new tenant”, “public sector tenant”, “tenant condition” and “tenant’s incumbrances”;

(d) to the expressions “secure tenant” and “tenant” when used in a modification made by these Regulations.

(3) In Schedule 6, Part III, for “tenant” substitute the expression “qualifying person” in the following paragraphs—

paragraph 13 (both references),

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- (1) Section 171A was inserted by section 8 of the Housing and Planning Act 1986.
(2) Schedule 9A was inserted by section 8(2) and Schedule 2 to the Housing and Planning Act 1986.
(3) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.
(4) Section 125B was inserted by section 4(2) of the Housing and Planning Act 1986.
(5) Section 171B was inserted by section 8 of the Housing and Planning Act 1986 and was amended by section 127(1) of the Housing Act 1988.
(6) Section 171H was inserted by section 8 of the Housing and Planning Act 1986 and subsection (1) was partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.
(7) Section 175(1) was amended by paragraph 20 of the Schedule to S.I.1990/434.
(8) In section 187 the definition of “improvement contribution” was inserted by paragraph 30 of Schedule 5 to the Housing and Planning Act 1986.
(9) Part III of Schedule 6 was amended by section 4 of and paragraph 41 of Schedule 5 to the Housing and Planning Act 1986, and partly repealed by Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

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paragraph 16 (first reference only).

2.—(1) Subject to the following provisions of this paragraph, in the provisions of Part V, for the expression “dwelling-house” or “dwelling-houses” substitute the expression “qualifying dwelling-house” or “qualifying dwelling-houses”.

(2) Sub-paragraph (1) does not apply—

(a) to the references to dwelling-house in—

section 127(4)(c),
 section 130(2)(a), (aa)(10), and (6),
 section 171A to 171H(11),
 section 183,
 section 184(12),
 section 187, the definition of “improvement”(13),
 section 188(14),
 Schedule 4, paragraphs 2–4, 6, 7A(15) and 9,
 Schedule 5, paragraph 5(2),
 Schedule 9A(16);

(b) to the references to dwelling-houses in—

Schedule 5, paragraphs 7, 9 to 10, Section 171B, Schedule 9A;

(c) to the expressions “another dwelling-house”, “existing dwelling-house” and “new dwelling-house”, “previous dwelling-house” and “relevant dwelling-house”;

(d) to the expression “dwelling-house” when used in a modification made by these Regulations.

3. Omit section 118(2) (the right to buy).

4. In section 119(2) (qualifying period for right to buy), for “Where the secure tenancy is a joint tenancy” substitute “Where the tenancy held by the qualifying person is a joint tenancy”.

5. At the end of section 122 (qualifying person’s notice claiming to exercise right to buy) add—

“(4) Where the qualifying dwelling-house is occupied by two or more qualifying persons as joint tenants the right to buy may be exercised by such one or more of them as may be agreed between them.”.

6. For section 123(3) (claim to share right to buy with members of family) substitute—

(10) Section 130(2)(a) was amended and subsection (2)(aa) was substituted by paragraph 29 of Schedule 5 to the Housing and Planning Act 1986.

(11) Sections 171A to H were inserted by section 8 to the Housing and Planning Act 1986. Section 171B was amended by section 127(1) of the Housing Act 1988; section 171C was amended by paragraph 19 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993; section 171H was partly repealed by Schedule 22 to the 1993 Act.

(12) Section 184 was amended by paragraph 24 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(13) In section 187 the definition of “improvement” was amended by paragraph 30 of Schedule 5 to the Housing and Planning Act 1986.

(14) Section 188 was amended by paragraph 31 of Schedule 5 to the Housing and Planning Act 1986, paragraph 106 of Schedule 17 to the Housing Act 1988 and paragraph 25 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 and partly repealed by Schedule 22 to the 1993 Act.

(15) Paragraph 7A was inserted by paragraph 40 of Schedule 5 to the Housing and Planning Act 1986.

(16) Schedule 9A was inserted by section 8(2) and Schedule 2 to the Housing and Planning Act 1986.

“(3) Where by such a notice any members of the qualifying person’s family are validly required to share the right to buy with him, the right to buy the qualifying dwelling-house belongs to the qualifying person and those members jointly and they shall be treated as joint tenants for the purposes, in relation to that qualifying dwelling-house, of the right to buy.”

7. In section 125(5)(17) (landlord’s notice of purchase price and other matters)—

- (a) at the end of paragraph (c) insert “and”; and
- (b) omit paragraphs (e) and (f).

8. In section 125A(2)(b)(18) (estimates and information about service charges), omit the words from “and section 450A” to the end of the subsection.

9. In section 125D(1)(19) (qualifying person’s notice of intention) for the words after “in subsection (2)” substitute “serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim.”.

10. In section 127 (value of qualifying dwelling-house)—

- (a) in subsection (3)(a) omit “(but subject to sub-paragraph (3) of that paragraph)”; and
- (b) for subsection (4) substitute—

“(4) The persons referred to in subsection (1)(b) are—

- (a) a qualifying person or, where the qualifying person is a qualifying successor, the person who was the qualifying person before him;
- (b) where the qualifying person is the former secure tenant, any person who, under the same tenancy, was a secure tenant before him; and
- (c) where the qualifying person is the former secure tenant, any member of his family who, immediately before the grant of the secure tenancy, was the secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the qualifying person is the former secure tenant whose tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.”.

11. In section 131 (limits on amount of discount)—

- (a) for subsection (1)(20) substitute—

“(1) Unless the landlord otherwise agrees—

- (a) the discount shall not reduce the price below the amount which, in accordance with Schedule 5A, is to be taken as representing the costs incurred by the landlord in respect of the qualifying dwelling-house and is to be treated as relevant for the purposes of this section;
- (b) if the price before discount is below that amount there shall be no discount.”;

- (b) omit subsection (1A)(21); and

- (c) in subsection (3) omit “or determination”.

12. In section 136 (change of qualifying person after notice claiming right to buy)—

- (a) for subsection (1) substitute—

(17) Subsection (5) was substituted by section 104 of the Leasehold Reform, Housing and Urban Development Act 1993.

(18) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.

(19) Section 125D was inserted by section 105 of the Leasehold Reform, Housing and Urban Development Act 1993.

(20) Section 131(1) was amended by section 122(2) of the Housing Act 1988.

(21) Section 131(1A) was inserted by section 122(3) of the Housing Act 1988.

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- “(1) Where, after a qualifying person has given a notice claiming the right to buy, a qualifying successor becomes the qualifying person in relation to the qualifying dwelling-house, the qualifying successor shall be in the same position as if the notice had been given by him and he had been the qualifying person at the time it was given.”;
- (b) in subsection (2)(22) for “former tenant” substitute “former qualifying person”; and
- (c) in subsection (6) for “new tenant” substitute “new qualifying person”.
- 13.** In section 137(1)(23) (change of landlord after claiming right to buy)—
- (a) after “Where” insert “, other than in a case to which section 171D(1)(a) or section 171E(2) (a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),”; and
- (b) for the word “body” in each place in which that word occurs substitute “person”.
- 14.** In section 139(2) (terms and effect of conveyance or grant) for the words before the semi-colon substitute—
- “The tenancy held by the qualifying person comes to an end on the grant to him of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part”.
- 15.** For section 140(3)(24) (landlord’s first notice to complete) substitute—
- “(3) A notice under this section shall not be served earlier than 12 months after the service of the landlord’s notice under section 125 (notice of purchase price and other matters).”.
- 16.** Omit sections 143 to 153(25) (right to acquire on rent to mortgage terms).
- 17.** In section 153A(1)(e) and (3)(b)(26) (qualifying person’s notices of delay) omit “or his right to acquire on rent to mortgage terms”.
- 18.** In section 153B (payments of rent attributable to purchase price etc.)—
- (a) in subsection (1)(b) omit “or, as the case may be, section 150”;
- (b) in subsection (1)(d)(27) omit “or, as the case may be, the notice claiming to exercise the right to acquire on rent to mortgage terms”; and
- (c) in subsection (3)(28) omit “or, as the case may be, the tenant’s initial payment”.
- 19.** In section 154 (registration of title), in subsection (1)(29) omit “or” at the end of paragraph (a) and omit paragraph (b).
- 20.** In section 155 (repayment of discount on early disposal)—
- (a) in subsection (1)—

(22) Section 136(2) was substituted by section 105(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(23) Section 137(1) was amended by paragraph 4 of Schedule 5 to the Housing and Planning Act 1986 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(24) Section 140(3) was substituted by paragraph 12 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(25) Sections 143 to 151 were substituted by sections 108 to 116 of the Leasehold Reform, Housing and Urban Development Act 1993; sections 151A and 151B were inserted by sections 117 and 118 of the 1993 Act; sections 152 and 153 were amended by section 119 of the 1993 Act.

(26) Section 153A was inserted by section 124 of the Housing Act 1988; subsections (1)(e) and (3)(b) were amended by paragraph 13 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993; subsection (1) was partly repealed by Schedule 22 to the 1993 Act.

(27) Section 153B was inserted by section 124 of the Housing Act 1988; section 153B(1)(d) was amended by paragraph 14 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993; subsection (1) was partly repealed by Schedule 22 to the 1993 Act.

(28) Section 153B(3) was amended by paragraph 14(3) of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(29) Section 154(1) was amended by section 2(3) of the Land Registration Act 1986 (c. 26).

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- (i) for the words from “shall contain” to “no discount”) substitute “may, at the discretion of the landlord, contain (unless there is no discount)”; and
 - (ii) add at the end of the subsection “but not one the effect of which would be more onerous”;
 - (b) in subsection (2)(30) omit “In the case of a conveyance or grant in pursuance of the right to buy”;
 - (c) omit subsection (3)(31); and
 - (d) in subsection (3A)(32) omit “and” at the end of paragraph (a) and omit paragraph (b).
- 21.** In section 156 (liability to repay is a charge on the premises)—
- (a) in subsections (1) and (3A)(33) for “required by” substitute “imposed by virtue of”;
 - (b) for subsection (2)(34) substitute—
 - “(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the qualifying person by an approved lending institution for the purpose of enabling him to exercise the right to buy.”;
 - (c) in subsection (2A)(a)(35) omit “paragraph (a) or (b) of”; and
 - (d) in subsection (4A)(36) omit paragraph (a).
- 22.** In section 157 (restriction on disposal of qualifying dwelling-houses in National Parks etc.)—
- (a) in subsection (1) omit “a local authority, the Development Board for Rural Wales or”;
 - (b) in subsection (4)(37) omit “the Secretary of State or, where the landlord is a housing association,” and omit the comma after “Corporation”; and
 - (c) in subsection (5)(38) omit “the Secretary of State or” and the words “he, or as the case may be,” and the comma after “the Corporation”.
- 23.** In section 158 (consideration for reconveyance or surrender under s. 157)—
- (a) in subsection (1) for “tenant” substitute “a qualifying person (or his successor in title or a person deriving title under him or his successor)”; and
 - (b) in subsection (2)(39) —
 - (i) in paragraph (a) for “the covenant required by” substitute “a covenant imposed by virtue of”;
 - (ii) omit “and” at the end of paragraph (a) and omit paragraphs (aa) and (b).
- 24.** In section 162(a) (exempted disposals which end liability under covenants) for “the covenant required by” substitute “a covenant imposed by virtue of”.
- 25.** Omit sections 164 to 170 (various powers of Secretary of State).
- 26.** Omit section 171 (power to extend right to buy, etc.).

(30) Section 155(2) was amended by section 2(3) of the Housing and Planning Act 1986.

(31) Section 155(3) was substituted by section 120(1) of the Leasehold Reform, Housing and Urban Development Act 1993.

(32) Section 155(3A) was inserted by paragraph 41 of Schedule 17 to the Housing Act 1988 and amended by section 120(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(33) Section 156(3A) was added by paragraph 1 of Schedule 5 to the Housing and Planning Act 1986.

(34) Section 156(2) was substituted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(35) Section 156(2A) was inserted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(36) Subsection (4A) was inserted by section 120(4) of the Leasehold Reform, Housing and Urban Development Act 1993.

(37) Section 157(4) was amended by paragraph 106 of Schedule 17 to the Housing Act 1988.

(38) Section 157(5) was amended by paragraph 106 of Schedule 17 to the Housing Act 1988.

(39) Section 158(2)(aa) was inserted by paragraph 15 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

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27. In section 171A(2)(**40**) (cases in which right to buy is preserved), omit “the following provisions of”.

28. In section 171B(5)(b)(**41**) (extent of preserved right: qualifying persons and qualifying dwelling-houses), for “became the statutory tenant or tenant as mentioned in subsection (4)(a) or (b)” substitute “acquired the assured tenancy, became the assignee of the assured tenancy or became the tenant, as mentioned in subsection (4)(a), (aa), or (b)”.

29. Omit section 171C(**42**) (modifications to Part V in relation to preserved right to buy).

30. Omit section 173 (exclusion of shared ownership leases granted under Part V).

31. In section 174(**43**) (leases granted under Part V to be treated as long leases at a low rent) omit “and” at the end of paragraph (a) and omit paragraph (b).

32. In section 176 (notices) omit subsections (1), (2) and (5).

33. Omit section 177(**44**) (errors and omissions in notices).

34. For section 178(**45**) (costs) substitute—

“**178.** An agreement between the landlord and qualifying person claiming to exercise the right to buy is void in so far as it purports to oblige the qualifying person to bear any part of the costs incurred by the landlord in connection with the qualifying person’s exercise of that right”.

35. In section 179 (provisions restricting right to buy, etc. of no effect)—

(a) for subsection (1)(a)(**46**) substitute—

“(a) the grant of a lease in pursuance of the preserved right to buy, or”; and

(b) omit subsection (2).

36. In section 180(**47**) (statutory declarations) for the words from the beginning of the section to “thinks fit” substitute “A landlord may if he thinks fit”.

37. In section 181(1)(b)(**48**) (jurisdiction of county court) omit “or under a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms”.

38. Omit section 182(**49**) (power to repeal or amend local Acts).

39. In section 184(2)(a) and (3)(**50**) (land let with or used for purposes of dwelling-house) omit “or the right to acquire on rent to mortgage terms”.

(40) Section 171A was inserted by section 8 of the Housing and Planning Act 1986.

(41) Section 171B was inserted by section 8 of the Housing and Planning Act 1986 and was amended by section 127(1) of the Housing Act 1988.

(42) Section 171C was inserted by section 8 of the Housing and Planning Act 1986; was amended by paragraph 19 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(43) Section 174(b) was amended by paragraph 19 of the Schedule to S.I. 1990/434.

(44) Section 177 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988; amended by paragraph 20 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(45) Section 178 was substituted by paragraph 21 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(46) Section 179(1)(a) was amended by paragraph 22 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(47) Section 180 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(48) Section 181(1) was amended by paragraph 23 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(49) Section 182 was partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(50) Section 184(2)(a) and (3) were amended by paragraph 24 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

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- 40.** In section 188(**51**) (the index of defined expressions: Part V)—
- (a) omit from the first column of the Table the following expressions together with the corresponding entries in the second column—
- “final payment”
 - “housing trust”
 - “initial payment and interim payment”
 - “landlord’s share”
 - “minimum initial payment and maximum initial payment”
 - “right to acquire on rent to mortgage terms”;
- (b) at the appropriate places in the Table insert—

“assured tenancy	section 622”
“qualifying successor	section 171B(4)”.

- 41.** In Schedule 5 (exceptions to the right to buy) omit paragraphs 1 (charities) and 3(**52**) (certain housing associations).
- 42.** After Schedule 5 insert as Schedule 5A the Schedule set out in Part II of this Schedule.
- 43.** In Schedule 6 (conveyance of freehold and grant of lease in pursuance of right to buy)—
- (a) in Part I (common provisions)—
- (i) in paragraphs 2(2)(a) and (b), for “the secure tenancy” substitute “his tenancy”,
 - (ii) in paragraph 4, for “the secure tenancy” substitute “the qualifying person’s tenancy”,
and
 - (iii) in paragraph 7, in the definition of “tenant’s incumbrance” in sub-paragraph (a) for “the secure tenancy” substitute “the qualifying person’s tenancy” and in sub-paragraph (b), for “the secure tenancy” substitute “that tenancy”;
- (b) in Part III (leases)—
- (i) in paragraph 11 omit “(but subject to sub-paragraph (3) of that paragraph)”,
 - (ii) in paragraph 12 omit sub-paragraph (3),
 - (iii) in paragraph 13 for “the secure tenancy” substitute “his tenancy”; and
 - (iv) omit paragraph 16E(**53**).
- 44.** Omit Schedule 6A(**54**) (redemption of landlord’s share under rent to mortgage).

(51) Section 188 was amended by paragraph 31 of Schedule 5 to the Housing and Planning Act 1986; paragraph 106 of Schedule 17 to the Housing Act 1988; paragraph 25 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(52) Paragraph 3 of Schedule 5 was amended by paragraph 66 of Schedule 17 and partly repealed by Schedule 18 to the Housing Act 1988.

(53) Paragraph 16E of Schedule 6 was inserted by section 116(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(54) Schedule 6A was inserted by section 117(2) of and Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

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PART II

SCHEDULE TO BE INSERTED AFTER SCHEDULE 5

“SCHEDULE 5A

Section 131.

LIMITS ON AMOUNT OF DISCOUNT RELEVANT COSTS

Introductory

1. In this Schedule—

“cost floor” means the amount mentioned in section 131(1)(a) (limits on amount of discount), and

“relevant costs” means costs to be taken into account for the purposes of section 131(1)(a).

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 qualifying dwelling-house are relevant works but works of repair or maintenance or works to deal with any defect affecting the qualifying 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 works; or
- (b) the qualifying person has agreed in writing to the carrying out of 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 sub-paragraph (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 qualifying dwelling-house, or
- (b) the construction of the qualifying dwelling-house (including development works and the acquisition of land), and
- (c) relevant works to the qualifying dwelling-house.

(3) Where the landlord has previously disposed of the qualifying 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).

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Estimates

6. An estimate may be made for the purposes of arriving at the cost floor for a qualifying 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) and (3) 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.(55)

(55) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).