

SCHEDULE 2

PART V AS IT APPLIES IN CASES WHERE THE RIGHT TO BUY IS PRESERVED

Purchase price

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126.—(1) The price payable for a qualifying dwelling-house on a conveyance or grant in pursuance of this Part is—

- (a) the amount which under section 127 is to be taken as its value at the relevant time, less
- (b) the discount to which the purchaser is entitled under this Part.

(2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

Value of qualifying dwelling-house

127.—(1) The value of a qualifying dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—

- (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3),
- (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the qualifying dwelling-house in good internal repair, and
- (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.

(2) For a conveyance the assumptions are—

- (a) that the vendor was selling for an estate in fee simple with vacant possession,
- (b) that neither the qualifying person nor a member of his family residing with him wanted to buy, and
- (c) that the qualifying dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.

(3) For the grant of a lease the assumptions are—

- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6,
- (b) that neither the qualifying person nor a member of his family residing with him wanted to take the lease,
- (c) that the ground rent would not exceed £10 per annum, and
- (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.

(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

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- (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.

Determination of value by district valuer

128.—(1) Any question arising under this Part as to the value of a qualifying dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.

(2) A qualifying person may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the qualifying person for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.

(3) If such proceedings are begun after a previous determination under this section—

- (a) the qualifying person may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the qualifying dwelling-house at the relevant time to be re-determined, and

- (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;

and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the qualifying person a notice stating that the requirement is being or has been made.

(4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the qualifying person within four weeks from the service of the qualifying person's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).

(5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the qualifying person a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).

Discount

129.—(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

(2) The discount is, subject to any order under subsection (2A)—

- (a) in the case of a house, 32 per cent. plus one per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 60 per cent.;
- (b) in the case of a flat, 44 per cent. plus two per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 70 per cent.

(2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

- (a) the minimum percentage discount,

- (b) the percentage increase for each complete year of the qualifying period after the first two, or
 - (c) the maximum percentage discount,
- shall be such percentage, higher than that specified in subsection (2) as may be specified in the order.

(2B) An order—

- (a) may make different provision with respect to different cases or descriptions of case,
 - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
 - (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the qualifying person there were substituted that one of the joint tenants whose substitution will produce the largest discount.

Reduction of discount where previous discount given

130.—(1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.

(2) A “previous discount” means a discount given before the relevant time—

- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 or 7A of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
 - (aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or
 - (ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord’s share), or
 - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
- (a) to the person or one of the persons exercising the right to buy, or
 - (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
 - (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);

and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.

(4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—

- (a) by the receipt of a payment determined by reference to the discount, or
- (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
- (c) in any other way,

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then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.

(5) An order under this section—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section “qualifying dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

Limits on amount of discount

131.—(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.

(2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.

(3) An order under this section may make different provision for different cases or descriptions of case, including different provision for different areas.

(4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.