

SCHEDULE 2

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

Supplementary provisions

Notices

176.—(3) A notice under this Part may be served by sending it by post.

(4) Where the landlord is a housing association, a notice to be served by the qualifying person on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the qualifying person usually deals.

Costs

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.

Provisions restricting right to buy, etc. of no effect

179.—(1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—

- (a) the grant of a lease in pursuance of the preserved right to buy, or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted,

or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.

Statutory declarations

180. A landlord may if he thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

Jurisdiction of county court

181.—(1) A county court has jurisdiction—

- (a) to entertain any proceedings brought under this Part, and
- (b) to determine any question arising under this Part,

but subject to sections 128 and 158 (which provide for matters of valuation to be determined by the district valuer).

(2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.

(4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—

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- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
 - (b) for the conduct of proceedings in private.
- (5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Meaning of “house”, “flat” and “dwelling-house”

183.—(1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.

- (2) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
 - (b) where a building is divided vertically, the units into which it is divided may be houses;
 - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) A dwelling-house which is not a house is a flat.

Land let with or used for purposes of dwelling-house

184.—(1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.

- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
- (a) the qualifying person, by written notice served on the landlord at any time before he exercises the right to buy requires the land to be included in the dwelling-house, and
 - (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the qualifying person exercises the right to buy.

(4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

Meaning of “secure tenancy” and “secure tenant”

185.—(1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.

- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
- (a) a predecessor of a local authority shall be deemed to have been such an authority, and

- (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

Members of a person's family

- 186.**—(1) A person is a member of another's family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
 - (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
 - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
 - (c) the stepchild of a person shall be treated as his child, and
 - (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

Minor definitions

187. In this Part—

“improvement” means in relation to a dwelling-house any alteration in, or addition to, the dwelling-house and includes—

- (a) any addition to, or alteration in, landlord's fixtures and fittings and any addition or alteration connected with the provision of services to the dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration,

and shall be similarly construed in relation to any other building or land;

“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);

“long tenancy” means—

- (a) a long tenancy within the meaning of Part IV,
- (b) or
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly.

Index of defined expressions: Part V

188. The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

assured tenancy	section 622
bank	section 622
building society	section 622

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cemetery	section 622
charity	section 622
compulsory disposal	section 161
co-operative housing association	section 5(2)
the Corporation	section 6A
disposal and instrument effecting disposal (in Schedule 9A)	paragraph 10 of that Schedule
district valuer	section 622
dwelling-house	sections 183 and 184
exempted disposal	section 160
family (member of)	section 186
flat	section 183
friendly society	section 622
former landlord and former secure tenant (in relation to a qualifying disposal)	section 171A(2)(c)
house	section 183
housing association	section 5(1)
improvement	section 187
improvement contribution	section 187
incumbrances	paragraph 7 of Schedule 6
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed	section 614
preserved right to buy	section 171A(2)(a)
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
qualifying disposal (in relation to the preserved right to buy)	section 171A(2)(b)
qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)	section 171B(1)
qualifying successor	section 171B(4)
reference period (for purposes of s. 125A or 125B)	section 125C

registered (in relation to a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 and see section 452(3)
relevant time	section 122(2)
right to buy	section 118(1)
secure tenancy and secure tenant	sections 79 and 185
service charge	section 621A
tenant's incumbrance	paragraph 7 of Schedule 6
trustee savings bank	section 622
urban development corporation	section 4(d)
