

SCHEDULE 3

Regulation 3(1)

TRANSITIONAL MODIFICATIONS TO PART V OF THE HOUSING ACT 1985

1. For subsection 125(5)(1) (landlord's notice of purchase price and other matters) substitute—
 - “(5) The notice shall also inform the qualifying person of—
 - (a) the effect of sections 125D and 125E(1) and (4) (qualifying person's notice of intention, landlord's notice in default and effect of failure to comply),
 - (b) his right under section 128 to have the value of the qualifying dwelling-house at the relevant time determined or re-determined by the district valuer,
 - (c) the effect of section 136(2) (change of qualifying person after service of notice under section 125), and
 - (d) the effect of 140, 141(1), (2) and (4) and section 142(1) and (2) (landlord's notices to complete and effect of failure to comply and right to defer completion).”.
2. For subsection 140(3)(2) (landlord's first notice to complete) substitute—
 - “(3) A notice under this section shall not be served earlier than—
 - (a) 12 months after the service of the landlord's notice under section 125 (notice of purchase price and other matters), or
 - (b) three years after the service of the notice under section 122 (qualifying person's notice claiming to exercise the right to buy) where the qualifying person is entitled to defer completion, if that period expires after the period specified in paragraph (a) above.”.
3. For section 142(3) (when qualifying person is entitled to defer completion) substitute—
 - (1) A qualifying person is entitled to defer completion if—
 - (a) his reckonable amount calculated in accordance with Schedule 6B (or the aggregate of such amounts where the right to buy is being exercised by more than one person) is less than the purchase price of the qualifying dwelling-house;
 - (b) he has, within the period mentioned below, served on the landlord a notice claiming to exercise the right to defer completion; and
 - (c) he has, within the same period, deposited the sum of £150 with the landlord.
 - (2) The notice must be served and the sum of £150 deposited within the period of three months beginning with the service on the qualifying person—
 - (a) where he exercised his right under section 128 (determination of value by district valuer), of the notice under subsection (5) of that section (further notice by landlord after determination), or
 - (b) where he does not exercise that right, of the notice under section 125 (landlord's notice of purchase price and other matters),or within that period as extended in writing by the landlord.
 - (3) Where a qualifying person has served on the landlord a notice under subsection (1) (b), the landlord shall, as soon as practicable after the date on which the notice is served, serve on the qualifying person a notice either—

(1) Section 125(5) was substituted by section 104 of the Leasehold Reform, Housing and Urban Development Act 1993.
(2) Section 140(3) was substituted by paragraph 12 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.
(3) Section 142 was repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993 subject to the transitional provisions in S.I. 1993/

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- (a) admitting the qualifying person’s right to defer completion, or
 - (b) denying it and stating the reasons why, in the landlord’s opinion, the qualifying person does not have the right.
- (4) If in pursuance of a notice under this section the qualifying person deposits the sum of £150 with the landlord, then—
- (a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and
 - (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord’s second notice to complete), the sum shall be returned to him.”.

4. After Schedule 6A(4) insert—

“SCHEDULE 6B

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 persons’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
 - “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

(4) 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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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 (graduated retirement benefits); and

(b) sections 43 to 55 and 78 to 79 of the Social Security Contributions and Benefits Act 1992 (retirement 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 Social Security Contributions and Benefits Act 1992 or the National Insurance Act 1965.

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.

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.

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(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.”.