

SCHEDULE 4

Sections 119 and 129.

QUALIFYING PERIOD FOR RIGHT TO BUY AND DISCOUNT

*Introductory*

1. The period to be taken into account—
  - (a) for the purposes of section 119 (qualification for right to buy), and
  - (b) for the purposes of section 129 (discount),

is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule.

*Periods occupying accommodation subject to public sector tenancy*

2. A period qualifies under this paragraph if it is a period during which, before the relevant time—
  - (a) the qualifying person, or
  - (b) his spouse (if they are living together at the relevant time), or
  - (c) a deceased spouse of his (if they were living together at the time of the death),

was a public sector tenant or was the spouse of a public sector tenant and occupied as his only or principal home the dwelling-house of which the spouse was such a tenant.

3. For the purposes of paragraph 2 a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as having been the public sector tenant under that tenancy.

4.—(1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (the “new tenant”) became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).

(2) A period during which the new tenant, since reaching the age of 16, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—

- (a) the period at the end of which he became the public sector tenant, or
- (b) an earlier period ending two years or less before the period mentioned in paragraph (a) or before another period within this paragraph,

shall be treated for the purposes of paragraph 2 as a period during which he was a public sector tenant.

(3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under section 186(2) (members of a person’s family: relationships other than those of the whole blood).

*Periods occupying forces accommodation*

5. A period qualifies under this paragraph if it is a period during which, before the relevant time—
  - (a) the qualifying person, or
  - (b) his spouse (if they are living together at the relevant time), or
  - (c) a deceased spouse of his (if they were living together at the time of the death),

occupied accommodation provided for him as a member of the regular armed forces of the Crown or was the spouse of a person occupying accommodation so provided and also occupied that accommodation.

*Periods during which right to buy is preserved*

**5A.** A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the qualifying person, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

was a qualifying person for the purposes of the preserved right to buy or was the spouse of such a person and occupied the qualifying dwelling-house as his only or principal home.

*Meaning of “public sector tenant”*

**6.—(1)** In this Schedule a “public sector tenant” means a tenant under a public sector tenancy.

(2) For the purposes of this Schedule, a tenancy, other than a long tenancy, under which a dwelling-house was let as a separate dwelling was a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant conditions were satisfied.

(3) The provisions of this Schedule apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

(4) Sub-paragraph (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

*The landlord condition*

**7.—(1)** The landlord condition is, subject to paragraph 7A and to any order under paragraph 8, that the interest of the landlord belonged to, or to a predecessor of—

- a local authority,
- a new town corporation,
- a housing action trust,
- the Development Board for Rural Wales,
- an urban development corporation,
- the Corporation,
- a registered housing association which is not a co-operative housing association,

or to, or to a predecessor of, an authority or other body falling within sub-paragraph (2) or (3) (corresponding authorities and bodies in Scotland and Northern Ireland).

(2) The corresponding authorities and bodies in Scotland are—

- a regional, islands or district council,
- a joint board or joint committee of such a council,
- the common good of such a council or a trust under its control,
- a development corporation, established by an order made or having effect as if made under the New Towns (Scotland) Act 1968,

Scottish Homes,

a housing association which falls within section 6(2)(a)(vi) of the Housing (Scotland) Act 1987 but is not a registered society within the meaning of section 45 of that Act.

(3) The corresponding authorities and bodies in Northern Ireland are—

a district council within the meaning of the Local Government Act (Northern Ireland) 1972, the Northern Ireland Housing Executive, and

a registered housing association within the meaning of Chapter II of Part II of the Housing (Northern Ireland) Order 1983.

**7A.**—(1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—

(a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or

(b) in Scotland, by an islands or district council,

if the interest of the landlord belonged to the housing co-operative.

(2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—

(a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and

(b) as regards Scotland mean an agreement made under section 22 of the Housing (Scotland) Act 1987 and a housing co-operative within the meaning of that section.

**8.**—(1) The landlord condition shall also be treated as having been satisfied, in such circumstances as may be prescribed for the purposes of this paragraph by order of the Secretary of State, if the interest of the landlord belonged to a person who is so prescribed.

(2) An order under this paragraph—

(a) may make different provision with respect to different cases or description 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.

#### *The tenant condition*

**9.** The tenant condition is that the tenant was an individual and occupied the dwelling-house as his only or principal home; or, where the tenancy was a joint tenancy, that each of the joint tenants was an individual and at least one of them occupied the dwelling-house as his only or principal home.

#### *Application to certain housing association tenancies*

**10.** For the purpose of determining whether at any time a tenant of a housing association was a public sector tenant and his tenancy a public sector tenancy, the association shall be deemed to have been registered at that time, under the Housing Associations Act 1985 or the corresponding Northern Ireland legislation, if it was so registered at any later time.