

Status: Point in time view as at 16/01/2012.

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SCHEDULES

SCHEDULE 1

Section 5.

ENFRANCHISEMENT OR EXTENSION BY SUB-TENANTS

General

- 1 (1) Where a person (in this Schedule referred to as “the claimant”) gives notice of his desire to have the freehold or an extended lease of a house and premises under Part I of this Act, and does so in respect of a sub-tenancy (in this Schedule referred to as “the tenancy in possession”), then except as otherwise provided by this Schedule—
 - (a) the rights and obligations of the landlord under Part I of this Act shall, so far as their interests are affected, be rights and obligations respectively of the estate owner in respect of the fee simple and of each of the persons in whom is vested a concurrent tenancy superior to the tenancy in possession (and references to the landlord shall apply accordingly); and
 - (b) the proceedings arising out of the notice, whether for resisting or giving effect to the claim to acquire the freehold or extended lease, shall be conducted, on behalf of all the persons referred to in (a) above, by and through that one of them who is identified by this Schedule as “the reversioner”.
- (2) Where there is a tenancy reversionary on a tenancy in respect of which a person gives notice as aforesaid, then (except in so far as special provision is made for such a reversionary tenancy) this Schedule shall apply as if the reversionary tenancy were a concurrent tenancy intermediate between the tenancy in possession and any interest superior to it.
- (3) In the following provisions of this Schedule the persons for whom the reversioner is by this paragraph authorised to act are referred to as “other landlords”; and in this Schedule references to superior interests mean the estate in fee simple and any tenancy superior (or treated by sub-paragraph (2) above as superior) to the inferior interest in question.
- 2 Subject to paragraph 3 below, “the reversioner” shall be—
 - (a) if any person has a tenancy of the house carrying an expectation of possession of thirty years or more, that person or, if there is more than one, that one of them to whose tenancy the other tenancies are superior;
 - (b) if there is no such tenancy, the estate owner in respect of the fee simple of the house.
- 3 (1) If it appears to the court, on an application made by any of the persons having an interest superior to the tenancy in possession,—
 - (a) that the respective interests of those persons, the absence or incapacity of the person designated by paragraph 2 above or other special circumstances require that one of the other landlords should act as the reversioner instead of that person; or

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- (b) that the person so designated is unwilling to act as the reversioner, and that one of the other landlords could appropriately replace him and is willing to do so; or
- (c) that by reason of complications in the title paragraph 2 above is inapplicable; the court may, on such terms and conditions as it thinks fit, appoint such person as it thinks fit to be the reversioner.
- (2) The court may also, on the application of any of the other landlords or of the claimant, remove the reversioner and appoint another person in his place, if it appears to the court proper to do so by reason of any delay or default, actual or apprehended, on the part of the reversioner.
- 4 (1) Without prejudice to the generality of paragraph 1 above, the reversioner may on behalf and in the name of the other landlords—
- (a) execute any conveyance to give effect to section 8 of this Act, or any lease to give effect to section 14; and
- (b) take or defend any legal proceedings under Part I of this Act in respect of matters arising out of the claimant’s notice.
- (2) Subject to paragraphs 5 and 6 below, in relation to all matters within the authority given to him by this Schedule the reversioner’s acts shall be binding on the other landlords and on their interests in the house and premises or any other property; but in the event of dispute either the reversioner or any of the other landlords may apply to the court for directions as to the manner in which he should act on the matter in dispute.
- (3) If any of the other landlords cannot be found, or his identity cannot be ascertained, the reversioner shall apply to the court for directions, and the court may make such order in the matter as it thinks proper with a view to giving effect to the rights of the claimant and protecting the interests of other persons; but subject to the directions of the court—
- (a) the reversioner shall proceed as in other cases;
- (b) a conveyance or lease executed by the reversioner on behalf of that landlord by such description as will identify the interest intended to be conveyed or bound shall be of the same effect as if executed in his name;
- (c) if the freehold is to be conveyed to the claimant, any sum paid as the price for that landlord’s interest shall be paid into court.
- (4) The reversioner, if he acts in good faith and with reasonable care and diligence, shall not be liable to any of the other landlords for any loss or damage caused by any act or omission in the exercise or intended exercise of the authority given to him by this Schedule.
- 5 (1) Notwithstanding anything in paragraph 4(2) above, any of the other landlords shall be entitled, if he so desires, to be separately represented in any legal proceedings in which his title to any property comes in question, or in any legal proceedings relating to the price payable for the house and premises under section 9 of this Act.
- (2) For the purpose of deducing, evidencing or verifying his title to any property, any of the other landlords, on given written notice to the reversioner and to the claimant, may deal directly with the claimant, if he objects to disclosing his title to the reversioner, and he shall deal directly with the claimant if the claimant by written notice given to him and to the reversioner so requires.

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- (3) For the purpose of agreeing the price payable for his interest under section 9 of this Act, any of the other landlords, on giving written notice to the reversioner and to the claimant, may deal directly with the claimant; and whether he does that or not, he may require the reversioner to apply to [^{F1}a leasehold valuation tribunal] for the price to be determined by [^{F1}a leasehold valuation tribunal].
- (4) Any of the other landlords shall be entitled to require that the price payable for his interest (or so much of it as is payable to him) shall be paid by the claimant to him or to a person authorised by him to receive it, instead of to the reversioner; but if, after being given proper notice of the time and place fixed for completion with the claimant, neither he nor a person so authorised attends to receive payment, and he has not made, and notified the reversioner of, other arrangements with the claimant to receive payment, the reversioner shall be authorised to receive it for him and the reversioner's written receipt for the amount payable shall be a complete discharge to the claimant.
- (5) It shall be the duty of each of the other landlords—
- (a) subject to sub-paragraphs (2) and (3) above, to give the reversioner all such information and assistance as he may reasonably require; and
 - (b) after being given proper notice of the time and place fixed for completion with the claimant (if the claimant is acquiring the freehold), to ensure that all deeds and other documents that ought on his part to be delivered to the claimant on completion are available for the purpose, including in the case of registered land the land certificate any other documents necessary to perfect the claimant's title;
- and, if any of the other landlords fails to do so, he shall indemnify the reversioner against any liability incurred by the reversioner in consequence of the failure.
- (6) Each of the other landlords shall make such contribution as may be just to the costs and expenses incurred by the reversioner and not recoverable or not recovered from the claimant.

Textual Amendments

F1 Words substituted by [Housing Act 1980 \(c. 51\)](#), [Sch. 22 para. 10](#)

- 6 (1) The authority given by this Schedule to the reversioner shall not extend to the bringing of proceedings under section 17 or 18 of this Act on behalf of any of the other landlords, or preclude any of the other landlords from bringing proceedings under that section on his own behalf; and (without prejudice to the operation of paragraph 1(2) above) a person entitled to a tenancy reversionary on the tenancy in possession may make an application under section 17 (by virtue of subsection (4)) or section 18 as a landlord.
- (2) Sections 29 and 30 of this Act shall apply, and apply only, where the authority entitled to require the covenant under the section is the estate owner in respect of the fee simple and there is no tenancy carrying an expectation of possession of thirty years or more.
- (3) For purposes of section 3(6) of this Act separate tenancies shall be deemed to be tenancies with the same landlord if the immediate landlord is the same.

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Enfranchisement

- 7 (1) Where a conveyance is executed to give effect to section 8 of this Act—
- (a) section 10 shall have effect in relation to rights and restrictions arising by virtue of any tenancy superior to the tenancy in possession (or by virtue of an agreement collateral to such a tenancy), so far as they are directly or indirectly to the benefit of or enforceable against the claimant during the tenancy in possession, as if they arose by virtue of that tenancy ^{F2}, and the reference in subsection (1A) of that section to the covenants for title implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 shall be read as excluding the covenant in section 4(1)(b) of that Act (compliance with terms of lease)]; and
 - (b) ^{F3}subject to paragraph 7A] a separate price shall be payable in accordance with section 9 for each of the interests superior to the tenancy in possession, and . . . ^{F4} section 9 shall apply to the computation of that price with such modifications as are appropriate to relate it to a sale of the interest in question subject to any tenancies intermediate between that interest and the tenancy in possession, together with tenant's incumbrances relative to those tenancies; and
 - (c) so much of section 11 as relates to the application of the purchase price for redemption of rentcharges . . . ^{F5} shall apply only to the price payable for the estate in fee simple; and
 - (d) so much of sections 12 and 13 as relates to the application of the price payable in or towards redemption of charges shall apply separately to the price payable for each interest together with the relative charges.
- (2) Where by reason of section 11(2) of this Act it is necessary to make (otherwise than out of the price payable for the house and premises) any payment for the redemption of a rentcharge . . . ^{F5}, the reversioner, if he is not the landlord liable or primarily liable in respect of the rentcharge . . . ^{F5}, shall not be required to make that payment otherwise than out of money made available for the purpose by that landlord, and it shall be the duty of that landlord to provide for the redemption; and similarly where by reason of section 12(8) proviso of this Act it is necessary to discharge the house and premises from a charge affecting the interest of any landlord.

Textual Amendments

- F2** Words in Sch. 1 para. 7(1)(a) inserted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 5(3)** (with s. 20); S.I. 1995/1317, **art. 2**
- F3** Words inserted by Housing Act 1980 (c. 51), **Sch. 21 para. 6**
- F4** Words repealed by Housing Act 1980 (c. 51), **Sch. 26**
- F5** Words repealed by Rentcharges Act 1977 (c. 30), s. 17(4), **Sch. 2**

- ^{F6}7A (1) The price payable for a minor superior tenancy shall be calculated (except where it has been determined by agreement or otherwise before this paragraph comes into force) by applying the formula set out in sub-paragraph (5) instead of in accordance with section 9.
- (2) “A minor superior tenancy” means a superior tenancy having an expectation of possession of not more than one month and in respect of which the profit rent is not more than £5 per year.

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- (3) “Profit rent” means an amount equal to that of the rent payable under the tenancy on which the minor superior tenancy is in immediate reversion, less that of the rent payable under the minor superior tenancy.
- (4) Where the minor superior tenancy or that on which it is in immediate reversion comprises property other than the house and premises, the reference in subparagraph (3) to the rent payable under it means so much of that rent as is apportioned to the house and premises.
- (5) The formula is—

$$P = \frac{R}{Y} \left(\frac{1 - (1 + Y)^{-n}}{Y} \right)$$

where—

P= the price payable;

R= the profit rent;

Y= the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;

n= the period, expressed in years (taking any part of a year as a whole year) which the minor superior tenancy would have to run if it were not extinguished by enfranchisement.

- (6) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the tenant gives notice in accordance with this Act of his desire to have the freehold.]

Textual Amendments

F6 Para. 7A inserted by [Housing Act 1980 \(c. 51\)](#), [Sch. 21 para. 6](#)

8 **F7**

Textual Amendments

F7 [Sch. 1 para. 8](#) repealed by [Rentcharges Act 1977 \(c. 30\)](#), s. 17(6), [Sch. 2](#)

- 9 Nothing in this Schedule shall be taken to entitle the claimant to give notice under section 9(3) of this Act of his inability or unwillingness to acquire particular interests superior to the tenancy in possession, but any such notice shall extend to all those interests.

Extension

- 10 (1) Where a lease is executed to give effect to section 14 of this Act, then except as provided by paragraph 11 below the new tenancy shall be granted by the landlord having an interest sufficient in point of duration which is not superior to another such interest.

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- (2) Subject to paragraph 11 below, the lease shall have effect for the creation of the new tenancy, and for the operation of the rights and obligations conferred and imposed by it, as if there had been a surrender and re-grant of any subsisting tenancy intermediate between the interest of the landlord granting the new tenancy and the tenancy in possession, and the covenants and other provisions of the lease shall be framed and take effect accordingly.
- (3) If there is no one landlord having such an interest in the whole of the house and premises as is referred to in sub-paragraph (1) above, then those having the appropriate interests in separate parts thereof shall instead grant the tenancy; and where it is necessary in accordance with this sub-paragraph for more than one landlord to join in granting the new tenancy, the lease shall have effect in accordance with sub-paragraph (2) above, but as if they had been jointly entitled to their interests and had become separately entitled by assignments taking effect immediately after the lease.
- (4) The lease shall give effect to section 15(2) of this Act on the basis that the references there to the landlord include the landlord granting the new tenancy, the immediate landlord of whom the new tenancy will be held and any intermediate landlord, and shall give effect to section 15(3) on the basis that account is to be taken of obligations imposed on any of those landlords by virtue of the new tenancy or any superior tenancy; and section 16(4) of this Act shall apply on the basis that the reference there to the tenant's landlord includes the immediate landlord of whom the new tenancy will be held and all superior landlords, including any superior to the landlord granting the new tenancy.
- 11 (1) Where a tenancy in the house and premises superior to the tenancy in possession is vested in the claimant or a trustee for him, the lease under section 14 of this Act shall include an actual surrender of that superior tenancy without a re-grant, and it shall accordingly be disregarded for purposes of paragraph 10 above.
- (2) Where, apart from this provision, the effect of the lease under section 14 of this Act would be, as regards any tenancy superior to the new tenancy,—
- (a) that the rent payable under that superior tenancy would be equal to or more than the rent payable under the tenancy on which it would be in immediate reversion (regard being had to the operation of this sub-paragraph in relation to any other tenancy); or
 - (b) that the difference between those rents would not be more than four pounds a year;
- then the person entitled to that superior tenancy may by written notice given to his immediate landlord and, if neither of them is the reversioner, to the reversioner require that the lease shall include an actual surrender by him of his tenancy without a re-grant.
- (3) Any person entitled to a tenancy superior to the new tenancy may by the like notice require that the lease shall confer on him the right to surrender his tenancy if by reason of any revision of the rent payable under the claimant's new tenancy (together with any consequent surrender under this provision of tenancies intermediate between the superior tenancy and that new tenancy) the rent payable under the superior tenancy will not thereafter be less by more than four pounds a year than the rent payable under the tenancy on which it will be in immediate reversion.
- (4) Where a landlord required apart from this sub-paragraph (or by virtue of this sub-paragraph as it operates in relation to another landlord) to grant the new tenancy

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would do so by virtue of a tenancy in respect of which he claims, by the like notice, to have the benefit of sub-paragraph (2) or (3) above, he shall for purposes of paragraph 10 above be replaced, subject to any further operation of this sub-paragraph, by the next superior landlord.

- (5) References in this paragraph to the rent payable under a tenancy mean, in relation to a tenancy comprising property other than the house and premises, so much of that rent as is apportionable to the house and premises, and any surrender or provision for the surrender of such a tenancy in accordance with this paragraph shall be limited to the house and premises.
- 12 (1) No provision of any tenancy prohibiting, restricting or otherwise relating to a sub-demise by the tenant shall have effect with reference to any lease executed to give effect to section 14 of this Act.
- (2) Where by reason of section 14(4) proviso of this Act it is necessary to make any payment to discharge the house and premises from a charge affecting the interest of any landlord, the reversioner, if he is not the landlord liable or primarily liable in respect of the charge, shall not be required to make that payment otherwise than out of money made available for the purpose by that landlord, and it shall be the duty of that landlord to provide for the charge being discharged.

Supplementary

- 13 (1) For purposes of this Schedule the expectation of possession carried by a tenancy is the expectation which it carries at the relevant time of possession after the tenancy in possession, on the basis that—
- (a) subject to sub-paragraph (2) below, the tenancy in possession terminates at the relevant time if its term date fell before then, or else terminates at its term date or (in the case of a tenancy which has been extended) its original term date; and
- (b) a tenancy other than the tenancy in possession terminates at its term date.
- (2) In a case where before the relevant time the claimant's immediate landlord had given notice to quit terminating the tenancy in possession at a date earlier than the term date, the date specified in the notice to quit shall be substituted for the date in sub-paragraph (1)(a) above.
- 14 (1) This Schedule shall apply notwithstanding that the tenancy in possession is a tenancy from the Crown within the meaning of section 33 of this Act; and, where under section 33(1)(b) the appropriate authority gives notice that as regards a Crown interest the authority will grant or concur in granting the freehold or an extended lease, then in relation to the Crown interest and the person to whom it belongs this Schedule shall have effect as it has effect in relation to other landlords and their interests, but with the appropriate authority having power to act as reversioner or otherwise for purposes of this Schedule on behalf of that person:
- Provided that paragraph 4(1)(a) above shall not apply to the execution of a conveyance or lease on behalf of the person to whom a Crown interest belongs.
- (2) A conveyance or lease executed in pursuance of paragraph 4(3) above shall be effective notwithstanding that the interest intended to be conveyed or bound is a Crown interest or a tenancy from the Crown.

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SCHEDULE 2

Sections 17, 18, 20, 21, 23 and 25.

PROVISIONS SUPPLEMENTARY TO SECTIONS 17 AND 18 OF THIS ACT

- 1 (1) This Schedule has effect where a tenant of a house and premises is entitled to be paid compensation under section 17 or 18 of this Act, or would be so entitled on the landlord obtaining an order for possession, or where an application for such an order is dismissed or withdrawn; and for purposes of this Schedule—
- (a) “application for possession” means a landlord’s application under section 17(1) or 18(1); and
- (b) “order for possession” means an order under section 17(2) or 18(4).
- (2) Where the tenancy has not been extended under section 14 of this Act, references in this Schedule to the original term date shall be construed as references to the term date or, in a case where before the relevant time the landlord had given notice to quit terminating the tenancy at a date earlier than the term date, as references to the date specified in the notice to quit.
- 2 (1) Where an order for possession is made, the tenancy shall determine, and the compensation payable to the tenant by virtue of the order shall become payable, on such date as may, when the amount of that compensation is known, be fixed by order of the court made on the application either of the landlord or of the tenant.
- (2) An order of the court under this paragraph shall not fix a date earlier than the original term date of the tenancy, nor shall it fix a date less than four months or more than twelve months after the date of the order unless the court sees special reason for doing so; and in a case under section 18 of this Act an application to [^{F8}a leasehold valuation tribunal] to determine the amount of the compensation payable to the tenant shall not be made more than twelve months before the original term date.
- (3) In fixing the date the court shall have regard to the conduct of the parties and, in a case under section 17 of this Act, to the extent to which the landlord has made reasonable preparations for proceeding with the redevelopment (including the obtaining of or preparations relating to the obtaining of any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of an interest in any property).
- (4) The court may by order direct that the whole or part of the compensation payable to the tenant shall be paid into court, if the court thinks it expedient so to do for the purpose of ensuring that the sum paid is available for meeting charges on the tenant’s interest in the house and premises, or for the purpose of division, or for any other purpose.

Textual Amendments

F8 Words substituted by [Housing Act 1980 \(c. 51\)](#), [Sch. 22 para. 11](#)

- 3 (1) On the termination of a tenancy under an order for possession there shall terminate also any immediate or derivative sub-tenancy, and the tenant shall be bound to give up possession of the house and premises to the landlord except in so far as he is precluded from doing so by the rights of other persons to retain possession under or by virtue of any enactment.
- (2) Where a sub-tenancy of property comprised in the tenancy has been created after the date of the application for possession (or any earlier date when, in the case of an

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application relying on section 28(1) of this Act, a copy of the Minister's certificate was served on the tenant), then no person shall in respect of that sub-tenancy be entitled under [^{F9}[^{F10}subsection (2) of section 137 of the ^{M1}Rent Act 1977], or any enactment (including [^{F11}subsection (5)] of that section)] applying or extending it, [^{F12}or under subsection (2) of section 9 of the ^{M2}Rent (Agriculture) Act 1976 as extended by subsection (5) of that section] to retain possession of that property after the termination of the tenancy under the order for possession.

- (3) In exercising its jurisdiction under section 17 or 18 of this Act or this Schedule the court shall assume that the landlord, having obtained an order for possession, will not be precluded from obtaining possession by the right of any person to retain possession by virtue of [^{F13}[^{F14}Part VII of the ^{M3}Rent Act 1977] or any enactment applying or extending that Part of that Act][^{F15}or of the ^{M4}Rent (Agriculture) Act 1976] or otherwise.
- (4) A person in occupation of the house and premises or part of them under a sub-tenancy liable to terminate under sub-paragraph (1) above may, with the leave of the court, appear and be heard on any application for possession or application under paragraph 2 above.

Textual Amendments

- F9** Words substituted by [Rent Act 1968 \(c. 23\)](#), [Sch. 15](#); continued by [Rent Act 1977 \(c. 42\)](#), [Sch. 24 para. 30](#)
- F10** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 45](#)
- F11** Words substituted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(a\)](#)
- F12** Words inserted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(a\)](#)
- F13** Words substituted by [Rent Act 1968 \(c. 23\)](#), [Sch. 15](#); continued by [Rent Act 1977 \(c. 42\)](#), [Sch. 24 para. 30](#)
- F14** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 45](#)
- F15** Words inserted by [Rent \(Agriculture\) Act 1976 \(c. 80\)](#), [Sch. 8 para. 18 \(b\)](#)

Marginal Citations

- M1** [1977 c. 42](#).
- M2** [1976 c. 80](#).
- M3** [1977 c. 42](#).
- M4** [1976 c. 80](#).

- 4 Where an order has been made under paragraph 2 above, the court making the order or another county court shall have jurisdiction to hear and determine any proceedings brought by virtue of the order to recover possession of the property or to recover the compensation, notwithstanding that by reason of the value of the property or the amount of the compensation the proceedings are not within the jurisdiction conferred on county courts apart from this provision.
- 5 (1) The amount payable to a tenant, by virtue of an order for possession, by way of compensation for the loss of the house and premises shall be the amount which, if sections 17 and 18 of this Act had not been passed, the house and premises, if sold in the open market by a willing seller, might at the date when the order for possession becomes final be expected to realise, on the assumption that the vendor was selling the tenancy, and was selling—
- (a) subject to the rights of any person who will on the termination of the tenancy be entitled to retain possession as against the landlord, but otherwise with vacant possession; and

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- (b) subject to any subsisting incumbrances which will not terminate with the tenancy and for which during the continuance of the tenancy the tenant is liable without having a right to be indemnified by the landlord, but otherwise free of incumbrances; and
- (c) subject to any restriction which would be required (in addition to any imposed by the terms of the tenancy) to limit the uses of the house and premises to those to which they have been put since the commencement of the tenancy and to preclude the erection of any new dwelling-house or any other building not ancillary to the house as a dwelling-house;
- but there shall be left out of account any value attaching to the right to acquire the freehold under Part I of this Act.
- (2) The compensation payable in respect of a tenancy which has not been extended under section 14 of this Act shall be computed as if the tenancy was to be so extended.
- 6 (1) Part I of the ^{M5}Landlord and Tenant Act 1927 (compensation for improvements on termination of business tenancies) shall not apply on the termination of the tenancy or any sub-tenancy in accordance with this Schedule; and a request for a new tenancy under section 26 of the ^{M6}Landlord and Tenant Act 1954 in respect of the tenancy or any sub-tenancy shall be of no effect if made after the application for possession, or shall cease to have effect on the making of that application.
- (2) Where a sub-tenancy terminating with the tenancy in accordance with paragraph 3 above is one to which Part II of the ^{M7}Landlord and Tenant Act 1954 applies, the compensation payable to the tenant shall be divided between him and the sub-tenant in such proportions as may be just, regard being had to their respective interests in the house and premises and to any loss arising from the termination of those interests and not incurred by imprudence.
- (3) Where the amount of the compensation payable to the tenant is agreed between him and the landlord without the consent of a sub-tenant entitled under sub-paragraph (2) above to a share in the compensation, and is shown by the sub-tenant to be less than might reasonably have been obtained by the tenant, the sub-tenant shall be entitled under sub-paragraph (2) above to recover from the tenant such increased share as may be just.
- Marginal Citations**

M5 1927 c. 36.

M6 1954 c. 56.

M7 1954 c. 56.
- 7 (1) The landlord shall not be concerned with the application of the amount payable to the tenant by way of compensation under an order for possession, but (subject to any statutory requirements as to payment of capital money arising under a settlement or ^{F16}trust of land] and to any order under paragraph 2(4) above for payment into court) the written receipt of the tenant shall be a complete discharge for the amount payable.
- (2) The landlord shall be entitled to deduct from the amount so payable to the tenant—
- (a) the amount of any sum payable by way of rent or recoverable as rent in respect of the house and premises up to the termination of the tenancy; and
- (b) the amount of any other sums due and payable by the tenant to the landlord under or in respect of the tenancy or any agreement collateral thereto.

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- (3) Where the tenancy is [^{F17}subject to a trust of land], and compensation is paid in respect of it in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession), the sum received shall be dealt with as if it were proceeds of sale arising under the trust.

Textual Amendments

- F16** Words in Sch. 2 para. 7(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 10(c)(i)** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**
- F17** Words in Sch. 2 para. 7(3) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 10(c)(ii)** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

- 8 (1) Where a landlord makes an application for possession, and it is made to appear to the court that in relation to matters arising out of that application (including the giving up of possession of the house and premises or the payment of compensation) the landlord or the tenant has been guilty of any unreasonable delay or default, the court may—
- (a) by order revoke or vary, and direct repayment of sums paid under, any provision made by a previous order as to payment of the costs of proceedings taken in the court on or with reference to the application, or, where costs have not been awarded, award costs;
 - (b) certify particulars of the delay or default to the [^{F18}Upper Tribunal] with a view to enabling the Tribunal to exercise a like discretion in relation to costs of proceedings before the Tribunal.

[^{F19}(1A) Where the court certifies particulars of delay or default to the [^{F20}Upper Tribunal] under sub-paragraph (1)(b) above, the [^{F20}Upper Tribunal] may make any order as to costs of proceedings before the [^{F20}Upper Tribunal] which the court may make in relation to proceedings in the court.]

(2) ^{F21}

- (3) Where an application for possession is dismissed or withdrawn, and it is made to appear to the court—
- (a) that the application was not made in good faith; or
 - (b) that the landlord had attempted in any material respect to support by misrepresentation or the concealment of material facts a request to the tenant to deliver up possession without an application for possession;

the court may order that no further application for possession of the house and premises made by the landlord shall be entertained if it is made within the five years beginning with the date of the order.

Textual Amendments

- F18** Words in Sch. 2 para. 8(1)(b) substituted (1.6.2009) by **The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009** (S.I. 2009/1307), **art. 1, Sch. 1 para. 86** (with Sch. 5)
- F19** Sch. 2 para. 8(1A) inserted (30.9.2003 for E., 30.3.2004 for W.) by **Commonhold and Leasehold Reform Act 2002** (c. 15), s. 181(1), **Sch. 13 para. 6**; S.I. 2003/1986, **art. 2(c)(i)** (with Sch. 2); S.I. 2004/669, **art. 2(c)(i)** (with Sch. 2)

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- F20** Words in Sch. 2 para. 8(1A) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 86** (with Sch. 5)
- F21** Sch. 2 para. 8(2) repealed by [Housing Act 1980 \(c. 51\)](#), **Sch. 26**

- 9 (1) The purposes authorised for the application of capital money by section 73 of the ^{M8}Settled Land Act 1925 ^{F22}. . . and the purposes authorised by section 71 of the Settled Land Act 1925 ^{F22}. . . as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 or 18 of this Act (whether possession is obtained under that section or without any application for possession).
- (2) The purposes authorised for the application of capital money by section 26 of the ^{M9}Universities and College Estates Act 1925, and the purposes authorised by section 31 of that Act as purposes for which moneys may be raised by mortgage, shall include the payment of compensation in accordance with section 17 of this Act (whether possession is obtained under that section or without any application for possession).

Textual Amendments

- F22** Words in Sch. 2 para. 9(1) repealed (1.1.1997) by [1996 c. 47, s. 25\(2\)](#), **Sch. 4** (with ss. 24(2), 25(4)(5)); [S.I. 1996/2974](#), art. 2

Marginal Citations

- M8** 1925 c. 18.
M9 1925 c. 24.

SCHEDULE 3

Sections 22 and 34.

VALIDITY OF TENANTS’ NOTICES, EFFECT ON LANDLORD AND TENANT ACT 1954 ETC. AND PROCEDURE GENERALLY

PART I

Restrictions on claims by tenant, and effect of claims on other notices, forfeitures, etc.

- 1 (1) A claim to acquire the freehold or an extended lease of any property shall be of no effect if made after the tenant has given notice terminating the tenancy of that property (not being a notice that has been superseded by the grant, express or implied, of a new tenancy), or if made during the subsistence of an agreement for a future tenancy to which section 28 of the ^{M10}Landlord and Tenant Act 1954 [^{F23}or paragraph 17 of Schedule 10 to the Local Government and Housing Act 1989] applies.
- (2) A tenant’s notice terminating the tenancy of any property, shall be of no effect if given during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property.
- (3) In sub-paragraphs (1) and (2) above references to a notice terminating a tenancy include a tenant’s request for a new tenancy under section 26 of the Landlord and

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Tenant Act 1954, and a tenant’s notice under section 27(1) of that Act that he does not desire the tenancy to be continued.

Textual Amendments

F23 Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), **Sch. 11 para. 13(1)**

Marginal Citations

M10 1954 c. 56.

- 2 [F24(1) Sub-paragraphs (1A) to (1E) below apply where a landlord’s notice terminating the tenancy of any property has been given under section 4 or 25 of the Landlord and Tenant Act 1954 or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 (whether or not that notice has effect to terminate the tenancy).
- (1A) A claim to acquire the freehold or an extended lease of the property shall be of no effect if made after the relevant time, but this sub-paragraph is subject to sub-paragraphs (1D) and (1E) below.
- (1B) In this paragraph (but subject to sub-paragraph (1C) below) “the relevant time” is the end of the period of two months beginning with the date on which the landlord’s notice terminating the tenancy has been given or served.
- (1C) Where—
- a landlord’s notice terminating the tenancy has been given under section 25 of the Landlord and Tenant Act 1954, and
 - the tenant applies to the court under section 24(1) of that Act for an order for the grant of a new tenancy before the end of the period of two months mentioned in sub-paragraph (1B) above,
“the relevant time” is the time when the application is made.
- (1D) Sub-paragraph (1A) above shall not apply where the landlord gives his written consent to the claim being made after the relevant time.
- (1E) Where a tenant, having given notice of a desire to have the freehold, gives after the relevant time a further notice under section 9(3) of this Act of his inability or unwillingness to acquire the house and premises at the price he must pay, he may with the notice under section 9(3) give a notice of his desire to have an extended lease (if he then has a right to such a lease).]
- (2) A landlord’s notice terminating a tenancy of any property under section 4 or 25 of the ^{M11}Landlord and Tenant Act 1954 [F25 or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989] shall be of no effect if given [F25 or served] during the currency of a claim made in respect of the tenancy to acquire the freehold or an extended lease of that property, and shall cease to have effect on the making of such a claim.
- (3) Where any such landlord’s notice ceases (by virtue of sub-paragraph (2) above ^{F26} . . .) to have effect on the making of a claim, but the claim is not effective, then if within one month after the period of currency of that claim (or any subsequent claim made by virtue of the proviso to sub-paragraph (1) above) a landlord’s notice terminating the tenancy is given under section 4 or 25 of the Landlord and Tenant Act 1954 [F27 or

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served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989], the earliest date which may be specified therein as the date of termination shall be [^{F28}the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later.

- (i) in the case of a notice given under the said Act of 1954]the date of termination specified in the previous notice or the expiration of three months from the giving of the new notice, whichever is the later
- [^{F29}(ii) in the case of a notice served under the said Schedule 10, the date of termination specified in the previous notice or the expiration of the period of four months beginning on the date of service of the new notice, whichever is the later].

- (4) Where by virtue of sub-paragraph (3) above a landlord’s notice specifies as the date of termination of a tenancy a date earlier than six months after the giving of the notice, then—
 - (a) if it is a notice proposing a statutory tenancy, section 7(2) of the Landlord and Tenant Act 1954 shall apply in relation to the notice with the substitution, for references to the period of two months ending with the date of termination specified in the notice and the beginning of that period, of references to the period of three months beginning with the giving of the notice and the end of that period; ^{F30} ...
 - ^{F30}(b)

Textual Amendments

F24 Sch. 3 para. 2(1)-(1E) substituted for Sch. 3 para. 2(1) (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 5 para. 11**

F25 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(b)**

F26 Words in Sch. 3, para. 2(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1

F27 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(i)**

F28 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(ii)**

F29 Sch. 3 para. 2(3)(ii) added by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(2)(c)(iii)**

F30 Sch. 3 para. 2(4)(b) and word repealed (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 6**

Marginal Citations

M11 1954 c. 56.

- [^{F31}2A (1) If—
- (a) the landlord commences proceedings under Part 2 of the Landlord and Tenant Act 1954; and
 - (b) the tenant subsequently makes a claim to acquire the freehold or an extended lease of the property; and
 - (c) paragraph 2 above does not render the claim of no effect,
- no further steps shall be taken in the proceedings under Part 2 otherwise than for their dismissal and for the making of any consequential order.

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- (2) Section 64 of the Landlord and Tenant Act 1954 shall have no effect in a case to which sub-paragraph (1) above applies.]

Textual Amendments

F31 Sch. 3 para. 2A inserted (1.6.2004) by [The Regulatory Reform \(Business Tenancies\) \(England and Wales\) Order 2003 \(S.I. 2003/3096\)](#), art. 1(3), [Sch. 5 para. 12](#)

- 3 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim and for three months thereafter the tenancy in that property shall not terminate either by effluxion of time or in pursuance of a notice to quit given by the landlord or by the termination of a superior tenancy; but if the claim is not effective, and but for this sub-paragraph the tenancy would have so terminated before the end of those three months, the tenancy shall so terminate at the end of the three months.
- (2) Sub-paragraph (1) above shall not be taken to prevent an earlier termination of the tenancy in any manner not there mentioned, nor affect the power under section 146(4) of the ^{M12}Law of Property Act 1925 to grant a tenant relief against the termination of a superior tenancy, or any right of the tenant to relief under section 16(2) of the Landlord and Tenant Act 1954 or under paragraph 9 of Schedule 5 to that Act.
- [^{F32}(3) The reference in sub-paragraph (2) above to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act ^{M13}1954 includes a reference to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act ^{M14}1989.]

Textual Amendments

F32 Sch. 3 para. 3(3) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 13\(3\)](#)

Marginal Citations

M12 1925 c. 20.
M13 1954 c.56 (75:1).
M14 1989 c.42 (75:1).

- 4 (1) Where a tenant makes a claim to acquire the freehold or an extended lease of any property, then during the currency of the claim no proceedings to enforce any right of re-entry or forfeiture terminating the tenancy shall be brought in any court without the leave of that court, and leave shall not be granted unless the court is satisfied that the claim was not made in good faith; but where leave is granted, the claim shall cease to have effect.
- (2) Where a claim is made to acquire the freehold or an extended lease of property comprised in a tenancy, the tenancy shall be deemed for purposes of the claim to be a subsisting tenancy notwithstanding that the claim is made when proceedings are pending to enforce a right of re-entry or forfeiture terminating the tenancy and notwithstanding any order made afterwards in those proceedings, and if the claim is effective, the court in which the proceedings were brought may set aside or vary any such order to such extent and on such terms as appear to that court to be appropriate:

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Provided that if it appears to that court that the claim is not made in good faith, or there has been unreasonable delay in making it, and that apart from the claim effect should be given to the right of re-entry or forfeiture, the court shall order that the tenancy shall not be treated as subsisting nor the claim as valid by virtue of this sub-paragraph.

- (3) Where a court other than the county court—
- (a) grants leave under sub-paragraph (1) above; or
 - (b) makes an order under the proviso to sub-paragraph (2) above on the ground that a claim was not made in good faith;
- the court may make any such order as the county court is authorised to make by section 20(5) or (6) of this Act.
- (4) A tenant who, in proceedings to enforce a right of re-entry or forfeiture or a right to damages in respect of a failure to comply with any terms of the tenancy, applies for relief under section 16 of the ^{M15}Landlord and Tenant Act 1954 is not thereby precluded from making a claim to acquire the freehold or an extended lease; but if he gives notice under section 16(2) (under which the tenant is relieved from any order for recovery of possession or for payment of damages, but the tenancy is cut short), any claim made by him to acquire the freehold or an extended lease of property comprised in the tenancy, with or without other property, shall be of no effect, or, if already made, shall cease to have effect.
- (5) Sub-paragraph (4) above shall apply in relation to proceedings relating to a superior tenancy with the substitution for the references to section 16 and to section 16(2) of the Landlord and Tenant Act 1954 of references to paragraph 9 and to paragraph 9(2) of Schedule 5 to that Act.
- [^{F33}(6) The references in this paragraph—
- (a) to section 16 of the Landlord and Tenant Act ^{M16}1954 and subsection (2) of that section, and
 - (b) paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,
- include references to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act ^{M17}1989.]

Textual Amendments

F33 Sch. 3 para. 3(6) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\)](#), s. 194(1), [Sch. 11 para. 13\(4\)](#)

Marginal Citations

M15 1954 c. 56.

M16 1954 c.56 (75:1).

M17 1989 c.42 (75:1).

- 5 (1) For purposes of this Part of this Schedule—
- (a) references to a claim to acquire the freehold or an extended lease shall be taken as references to a notice of a person’s desire to acquire it under Part I of this Act and, except in so far as the contrary intention appears, as including

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- a claim made by a tenant not entitled to acquire it and a claim made by a person who is not a tenant; and
 - (b) references to a claim being effective shall be taken as references to the freehold or an extended lease being acquired in pursuance of the claim; and
 - (c) references to the currency of a claim shall be taken as references to the period from the giving of a notice which has effect or would, if valid, have effect to the time when the notice is effective or ceases to have effect, or (not being a valid notice) is set aside by the court or withdrawn or would, if valid, cease to have effect, and those references shall include any period when the notice is suspended.
- (2) For purposes of subparagraph (1)(c) above the date when a notice ceases to have effect or is set aside or would, if valid, cease to have effect in consequence of an order of a court shall be taken to be the date when the order becomes final.

PART II

Procedural Provisions

- 6 (1) A tenant’s notice under Part I of this Act of his desire to have the freehold or an extended lease of a house and premises shall be in the prescribed form, and shall contain the following particulars:—
- (a) the address of the house, and sufficient particulars of the house and premises to identify the property to which the claim extends;
 - (b) such particulars of the tenancy and [^{F34}, in the case of a tenancy falling within section 4(1)(i) of this Act,] of the rateable value of the house and premises as serve to identify the instrument creating the tenancy and show that
 - [^{F35}(i)] (apart from the operation, if any, of the proviso to section 4(1) of this Act) the tenancy is and has at the material times been a long tenancy at a low rent;
 - [^{F35}(ii)] at the material time the rateable value was within the limits specified for the purposes of section 1;
 - (c) the date on which the tenant acquired the tenancy;
 - ^{F36}(d)
 - [^{F37}(e)] in the case of a tenancy falling within section 1(1)(a)(ii) of this Act, the premium payable as a condition of the grant of the tenancy.]
- [^{F38}(1A)] [^{F39}Where the tenant gives the notice by virtue of section 1AA of this Act, sub-paragraph (1) above shall have effect with the substitution for paragraph (b) of—
- (“ such particulars of the tenancy as serve to identify the instrument creating the tenancy and show that the tenancy is one in relation to which section 1AA(1) of this Act has effect to confer a right to acquire the freehold of the house and premises;” .]]
- (2) Where the tenant gives the notice by virtue of section 6 [^{F40}, 6A] or 7 of this Act, sub-paragraph (1)(c) [^{F41} . . . above shall apply with the appropriate modifications of references to the tenant, so that the notice shall show the particulars bringing the case within section 6 [^{F40}, 6A] or 7.
- (3) The notice shall not be invalidated by an inaccuracy in the particulars required by this paragraph or any misdescription of the property to which the claim extends; and

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where the claim extends to property not properly included in the house and premises, or does not extend to property that ought to be so included, the notice may with the leave of the court, and on such terms as the court may see fit to impose, be amended so as to exclude or include that property.

Textual Amendments

- F34** Words inserted by [S.I. 1990/434, reg. 2, Sch. para. 10\(a\)](#)
- F35** Words inserted (prosp.) by [Housing Act 1980 \(c. 51\), s. 153\(4\), Sch. 21 para. 7](#)
- F36** Sch. 3 para. 6(1)(d) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F37** Sch. 3 para. 6(1)(e) inserted by [S.I. 1990/434, reg. 2, Sch. para. 10\(b\)](#)
- F38** Sch. 3 Pt. II para. 6(1A) inserted (1.4.1997) by [1996 c. 52, s. 106, Sch. 9 para. 2\(1\)\(8\); S.I. 1997/618, art. 2\(1\)](#) (with Sch.)
- F39** [Sch. 3 para. 6\(1A\)](#) repealed (7.9.2009 for E.) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 16; S.I. 2009/2096, art. 2\(2\)\(a\)\(c\)](#) (with [art. 3\(1\)\(2\)](#))
- F40** Words in Sch. 3 para. 6(2) inserted (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 142\(2\); S.I. 2002/1912, art. 2\(a\)](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(a\)](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F41** Words in Sch. 3 para. 6(2) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

- 7 (1) Where a tenant of a house gives the landlord notice in accordance with Part I of this Act of the tenant’s desire to have the freehold or an extended lease, the landlord shall within two months give the tenant a notice in reply in the prescribed form stating whether or not the landlord admits the tenant’s right to have the freehold or extended lease (subject to any question as to the correctness of the particulars given in the tenant’s notice of the house and premises); and if the landlord does not admit the tenant’s right, the notice shall state the grounds on which it is not admitted.
- (2) Subject to sub-paragraph (3) below, where under Part I of this Act the landlord may object to the inclusion of any part of the house and premises as described in the tenant’s notice, or may object to the exclusion of other property, the notice of his objection shall be given with or before his notice in reply, unless the right to give it later is reserved by the notice in reply.
- (3) If (on the assumption, where it is not admitted, that the tenant has the right claimed) it is intended to apply to the court for possession of the house and premises under section 17 or 18 of this Act, the notice in reply shall state that it is the intention to do so, and sub-paragraph (2) above shall not apply.
- (4) Where a landlord’s notice in reply admits the tenant’s right to have the freehold or extended lease of a house and premises, the admission shall be binding on the landlord, so far as relates to the matters [^{F42}relevant to the existence of that right], unless the landlord shows that he was induced to make the admission by misrepresentation or the concealment of material facts; but the admission shall not conclude any question whether the particulars of the house and premises in the tenant’s notice are correct.

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- (5) The tenant shall not institute proceedings in the court with a view to the enforcement of his right to have the freehold or an extended lease before the landlord has given his notice in reply or two months have elapsed without his doing so since the giving of the tenant’s notice.

Textual Amendments

F42 Words in **Sch. 3 Pt. II para. 7(4)** substituted (1.4.1997) by **1996 c. 52, s. 106, Sch. 9 para. 2(1)(9); S.I. 1997/618, art. 2(1)** (with Sch.)

- 8 (1) Where a person (“the claimant”) gives notice as tenant of a house of his desire to have the freehold or an extended lease under Part I of this Act, —
- (a) the notice shall be regarded as served on the landlord if it is served on any of the persons having an interest in the house and premises superior to the claimant’s tenancy and references to the relevant time shall be construed accordingly;
 - (b) copies of the notice shall be served by the claimant on any other persons known or believed by him to have such an interest;
 - (c) the notice shall state whether copies are being served in accordance with paragraph (b) above on anyone other than the recipient and, if so, on whom;
 - (d) a recipient of the notice or a copy of it (including a person receiving a copy under this paragraph), unless he is a person having no such interest, shall forthwith serve a copy on any person who is known or believed by him to have such an interest and is not stated in the recipient’s copy of the notice or known by him to have received a copy;
 - (e) a recipient of the notice or a copy of it shall, in any further copies served by him in accordance with paragraph (d) above, supplement the statement under paragraph (c) by adding any further persons on whom he is serving copies or who are known by him to have received one.
- (2) Any recipient of any such notice or a copy of it—
- (a) if he serves further copies of it on other persons in accordance with sub-paragraph (1)(d) above, shall notify the claimant of the persons added by him to the statement under sub-paragraph (1)(c); and
 - (b) if he knows who is, or believes himself to be, the person designated as the reversioner by paragraph 2 of Schedule 1 to this Act, shall give written notice to the claimant stating who is thought by him to be the reversioner, and shall serve copies of it on all persons known or believed by him to have an interest superior to the claimant’s tenancy.
- (3) Any person who fails without reasonable cause to comply with sub-paragraph (1) or (2) above, or is guilty of any unreasonable delay in doing so, shall be liable for any loss thereby occasioned to the claimant or to any person having an interest superior to the claimant’s tenancy.
- (4) In this paragraph references to an interest superior to the claimant’s tenancy mean the estate in fee simple and any tenancy superior to the claimant’s tenancy, but shall apply also to a tenancy reversionary on the claimant’s tenancy.
- 9 (1) Where the interest of a landlord is subject to a charge, and the person entitled to the benefit of the charge is in possession or a receiver appointed by him or by the court is in receipt of the rents and profits, a notice by a tenant of his desire to have the

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freehold or an extended lease under Part I of this Act shall be duly given if served either on the landlord or on that person or any such receiver; but the landlord or that person, if not the recipient of the notice, shall forthwith be sent the notice or a copy of it by the recipient:

Provided that in the case of a debenture-holders’ charge within the meaning of section 12(5) of this Act this sub-paragraph shall not authorise the service of a notice on, or require a notice or copy to be sent to, the persons entitled to the benefit of the charge, other than trustees for the debenture-holders, but where the notice is served on the landlord and there is no trustee for the debenture-holders, he shall forthwith send it or a copy of it to any receiver appointed by virtue of the charge.

- (2) Where a tenant of a house gives notice of his desire to have the freehold or an extended lease under Part I of this Act, and the interest of the person to whom the notice is given, or of any person receiving a copy of it under paragraph 8 above, is subject to a charge to secure the payment of money, then subject to sub-paragraph (3) below the recipient of the notice or copy shall forthwith inform the person entitled to the benefit of the charge (unless the notice was served on him or a receiver appointed by virtue of the charge) that the notice has been given, and shall give him such further information as may from time to time be reasonably required from the recipient by him.
 - (3) References in sub-paragraph (2) above to a charge shall not include a charge falling within section 11 of this Act or a debenture-holders’ charge within the meaning of section 12(5) of this Act.
- 10 (1) This paragraph shall have effect in relation to a landlord’s notice terminating a tenancy of a house under section 4 or 25 of the ^{M18}Landlord and Tenant Act 1954 [^{F43}or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989] if—
- (a) no previous notice terminating the tenancy has been given under [^{F44}any of those provisions]; and
 - (b) in the case of a notice under section 25, the tenancy is a long tenancy at a low rent, and the tenant is not a company or other artificial person.
- (2) The landlord’s notice shall not have effect unless it states—
- (a) that, if the tenant has a right under Part I of this Act to acquire the freehold or an extended lease of property comprised in the tenancy, notice of his desire to have the freehold or an extended lease cannot be given more than two months after the service of the landlord’s notice; and
 - (b) that, in the event of a tenant having that right and giving such a notice within those two months, the landlord’s notice will not operate; and
 - (c) that, in the event of the tenant giving such a notice within those two months, the landlord will be entitled to apply to the court under section 17 or 18 of this Act and proposes to do so or, as the case may be, will not be entitled or does not propose to do so.
- [^{F45}(2A) If the landlord’s notice is under section 25 of the Landlord and Tenant Act 1954, sub-paragraph (2) above shall effect in relation to it as if in paragraph (b), after the word “operate” there were inserted the words “and no further proceedings may be taken by him under Part 2 of the Landlord and Tenant Act 1954.”]
- (3) The landlord shall also in the notice give the names and addresses of any other persons known or believed by him to have an interest superior to the tenancy

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terminated by the notice or to be the agent concerned with the property on behalf of a person having such an interest; and for this purpose “an interest superior to the tenancy terminated by the notice” means the estate in fee simple and any tenancy superior to that tenancy, but includes also a tenancy reversionary on that tenancy.

- (4) Where a tenant’s notice of his desire to have the freehold or an extended lease of a house and premises under Part I of this Act is given after the service of a landlord’s notice terminating the tenancy under section 4 or section 25 of the Landlord and Tenant Act 1954 [^{F46}or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989], and the landlord’s notice does not comply with sub-paragraph (2) above, no application made under section 17 or 18 of this Act with respect to the house and premises by the landlord giving the notice shall be entertained by the court (other than an application under section 17 after the grant of an extended lease).
- (5) This paragraph shall not apply, ^{F47}. . . , to a landlord’s notice given before the appointed day.

Textual Amendments

- F43** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(5)(a)**
- F44** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(5)(a)**
- F45** Sch. 3 para. 10(2A) inserted (1.6.2004) by The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (S.I. 2003/3096), art. 1(3), **Sch. 5 para. 13**
- F46** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 75:1), s. 194(1), **Sch. 11 para. 13(5)(b)**
- F47** Words in Sch. 3 para. 10(5) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1

Marginal Citations

- M18** 1954 c. 56.

SCHEDULE 4

Sections 29 and 30.

SPECIAL COVENANTS WITH LOCAL AUTHORITIES ETC. ON ENFRANCHISEMENT OR EXTENSION

PART I

OPERATION AND ENFORCEMENT OF COVENANTS

- 1 (1) A covenant entered into in accordance with section 29 or 30 of this Act (in this Part of this Schedule referred to as “a relevant covenant”) shall not be enforceable by any means other than those provided by paragraphs 2 and 3 below.
- (2) A relevant covenant affecting land other than registered land—
- (a) may be registered under [^{F48}section 2 of the ^{M19}Land Charges Act 1972] as a restrictive covenant, if apart from this sub-paragraph it would not be

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- registrable under that section as a restrictive covenant or as an estate contract;
and
- (b) subject to [F48 section 4] of that Act, shall be binding upon every successor of the covenantor, if apart from this sub-paragraph it would not be binding upon every such successor.
- (3) Where a relevant covenant affects registered land,—
- [F49(a) the covenant may be the subject of a notice in the register of title kept under the Land Registration Act 2002, if apart from this subsection it would not be capable of being the subject of such a notice; and]
- (b) where [F50 a notice in respect of the covenant has been entered in that register, it] shall be binding upon every successor of the covenantor, if apart from this subsection it would not be binding upon every such successor.
- (4) In sub-paragraphs (2) and (3) above “successor of the covenantor”, in relation to the covenants entered into on any disposition, means a person, other than the covenantor, who is for the time being entitled—
- (a) to the interest disposed of, either in the whole or in part of the property comprised in the disposition; or
- (b) to an interest consisting of a tenancy (whether of the whole or of part of that property) which has been created (directly or indirectly) out of the interest disposed of.
- (5) Section 84 of the M20 Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) shall not have effect in relation to any relevant covenant.
- (6) The rule against perpetuities and any enactment relating to that rule shall not apply to any right conferred by, or exercisable in relation to, a relevant covenant, if apart from this sub-paragraph it would apply to any such right.
- (7) Where any such interest as is mentioned in sub-paragraph (4)(a) or (b) above is acquired (whether compulsorily or by agreement) by an authority possessing compulsory purchase powers within the meaning of [F51 the Town and Country Planning Act 1990] (including any government department), nothing in the enactment which authorises that acquisition, or in any other enactment conferring powers on that authority, shall be construed as relieving that authority from the obligation to comply with any relevant covenant to which that interest remains subject; but the rights of the covenantee shall for purposes of any such acquisition be treated as an interest in the land affected, and as capable of being, and liable to be, extinguished by being compulsorily acquired in like manner and subject to the like conditions as other interests of the covenantee would be.

Textual Amendments

F48 Words substituted by virtue of [Land Charges Act 1972 \(c. 61\), s. 18\(6\)](#)

F49 [Sch. 4 para. 1\(3\)\(a\)](#) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 8\(3\)\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

F50 Words in [Sch. 4 para. 1\(3\)\(b\)](#) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 8\(3\)\(b\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

F51 Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1\), s. 4, Sch. 2 para. 17\(2\)](#)

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Marginal Citations

M19 1972 c. 61.

M20 1925 c. 20.

- 2 (1) Where it appears to a local authority that a relevant covenant entered into on a disposition by that authority has been broken, the authority may serve written notice under this paragraph on any one or more of the following persons, that is to say—
- (a) any person for the time being entitled to the interest disposed of either in the whole or in part of the land comprised in the disposition (in this paragraph referred to as “the land under covenant”); and
 - (b) any person entitled to an interest consisting of a tenancy (whether of the whole or of part of the land under covenant) which has been created (directly or indirectly) out of the interest disposed of.
- (2) A notice served on any person under sub-paragraph (1) above shall—
- (a) specify the covenant and the matters in respect of which it is alleged by the authority that the covenant has been broken; and
 - (b) state that, after the end of such period (not being less than six weeks from the date of service of the notice) as may be specified in the notice, the authority propose to execute a vesting declaration under paragraph 3 below in respect of that person’s interest in the land under covenant unless before the end of that period he serves on the authority a counter-notice under sub-paragraph (3) below.
- (3) Any person on whom a notice is served under sub-paragraph (1) above may, before the end of the period specified in the notice in accordance with sub-paragraph (2)
- (b) serve on the authority a counter-notice in writing objecting to the notice on such one or more of the following grounds as may be specified in the counter-notice, that is to say—
 - (a) that the relevant covenant specified in the notice under sub-paragraph (1) above has not been broken as alleged in the notice;
 - (b) that, if that covenant has been so broken, the breach does not relate to any part of the land under covenant in which the person serving the counter-notice has an interest;
 - (c) that in the circumstances he ought to be relieved against the execution of a vesting declaration under paragraph 3 below in respect of his interest.
- (4) Where a person has served a counter-notice under sub-paragraph (3) above and that counter-notice has not been withdrawn, the authority shall not execute a vesting declaration under paragraph 3 below in respect of his interest except with the leave of the court; and on any application for such leave—
- (a) where the grounds of objection specified in the counter-notice consist of or include that which is specified in sub-paragraph (3)(a) or (b) above, the court shall not grant leave unless satisfied that the objection on that ground is not well-founded; and
 - (b) without prejudice to paragraph (a) above, where the grounds of objection specified in the counter-notice consist of or include that which is specified in sub-paragraph (3)(c) above, the court, if having regard to the conduct of the parties and to all the other circumstances it appears to the court to be just and equitable to do so, may refuse to grant leave, either unconditionally or on such terms (as to costs, damages or otherwise) as the court think fit.

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- 3 (1) Where a local authority have served on any person a notice under paragraph 2 above in respect of such an interest as is mentioned in paragraph 2(1)(a) or (b), then subject to paragraph 2(4) above and to the provisions of any order made under it, the authority may execute a vesting declaration under this paragraph in respect of that interest—
- (a) at any time within the six months following the end of the period specified in the notice in accordance with paragraph 2(2)(b), if no counter-notice under paragraph 2(3) is served before the end of that period; or
 - (b) if such a counter-notice is so served but is withdrawn, at any time within the six months following the withdrawal of the counter-notice; or
 - (c) if such a counter-notice is so served and is not withdrawn, at any time within the six months following the time when the order giving leave under paragraph 2(4) becomes final.³
- (2) A vesting declaration under this paragraph in respect of an interest in land shall be in such form as may be prescribed by regulations made by statutory instrument by [^{F52}the Secretary of State].
- (3) Where a vesting declaration is executed under this paragraph the interest to which it relates shall vest in the authority on such date as is specified in that behalf in the declaration.
- (4) Any reference in the ^{M21}Land Compensation Act 1961 to the compulsory acquisition of land, or of an interest in land, shall be construed as including a reference to the execution of a vesting declaration under this paragraph in respect of an interest in land; and that Act shall apply in relation to the execution of such a declaration as if the authority, having been duly authorised to acquire that interest compulsorily in accordance with the [^{F53}Acquisition of ^{M22}Land Act 1981], had served notice to treat in respect of that interest on the date of execution of the declaration.
- (5) In assessing compensation in accordance with the Land Compensation Act 1961 in respect of an interest in land vested in a local authority by a vesting declaration under this paragraph—
- (a) nothing shall be included for damage sustained by reason that the land in which the interest subsists is severed from other land held therewith, or for disturbance or any other matter not directly based on the value of land or of an interest in land; and
 - (b) in a case where immediately before the execution of the declaration the interest is subject to a right of pre-emption under a covenant entered into in accordance with section 30(1)(b) of this Act, no account shall be taken of any diminution of the value of the interest which is attributable to that right.

Textual Amendments

F52 Words substituted by virtue of S.I. 1970/1681, **art. 6(3)**

F53 Words substituted by **Acquisition of Land Act 1981 (c. 67), Sch. 4 para. 1**

Marginal Citations

M21 1961 c. 33.

M22 1981 c. 67.

Status: Point in time view as at 16/01/2012.

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PART II

RE-ACQUISITION FOR DEVELOPMENT BY [F54WELSH NEW TOWNS RESIDUARY BODY] OR UNIVERSITY BODY

Textual Amendments

F54 Words in Sch. 4 Pt. II heading substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 11\(2\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

- 4 Where a tenant of a house and premises acquires the freehold under Part I of this Act subject to a covenant entered into under section 29(1) with the [F55Welsh new towns residuary body], and the property or any part of it is afterwards required for development for purposes (other than investment purposes) of [F56that body, the body] may ^{F57}... acquire the property or that part of it compulsorily; [F58and the Acquisition of Land Act 1981 shall apply to a compulsory purchase under this paragraph].

Textual Amendments

- F55** Words in Sch. 4 para. 4 substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 11\(3\)\(a\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F56** Words in Sch. 4 para. 4 substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 11\(3\)\(b\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F57** Words in Sch. 4 para. 4 repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 11\(3\)\(c\)](#), [Sch. 16](#); S.I. 2008/3068, art. 2(1)(w)(3), 5, Sch. (with arts. 6-13)
- F58** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 4 para. 16\(2\)](#)

- 5 (1) Where a tenant of a house and premises acquires the freehold under Part I of this Act subject to a covenant entered into under section 29(1) with a university body, and the property or any part of it is afterwards required for development for the purposes (other than investment purposes) of that or a related university body, the Secretary of State for Education and Science may at the cost and on behalf of the university body for which it is required acquire the property or that part of it by compulsory purchase.
- [F59(2) The ^{M23}Acquisition of Land Act 1981 shall apply to a compulsory purchase under this paragraph].
- (3) For purposes of this paragraph a university and the colleges of that university (within the meaning of section 28(5)(c) of this Act) are university bodies related to one another.

Textual Amendments

F59 Para. 5(2) substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 4 para. 16\(3\)](#)

Marginal Citations

M23 1981 c. 67.

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Textual Amendments

F60 Sch. 4 Pt. II para. 6 repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

[^{F61}SCHEDULE 4A

EXCLUSION OF CERTAIN SHARED OWNERSHIP LEASES

Textual Amendments

F61 Schedule 4A inserted by **Housing and Planning Act 1986** (c. 63, SIF 75:1), s. 18, **Sch. 4 para. 6**

Leases granted in pursuance of right to be granted a shared ownership lease

- 1 A lease granted in pursuance of the right to be granted a shared ownership lease under Part V of the Housing Act ^{M24} 1985 is excluded from the operation of this Part of this Act.

Marginal Citations

M24 1985 c.68 (61)

Certain leases granted by certain public authorities

- ^{F62} (1) A lease which—
- (a) was granted at a premium by a body mentioned in sub-paragraph (2), and
 - (b) complies with the conditions set out in sub-paragraph (3),
- is excluded from the operation of this Part at any time when the interest of the landlord belongs to such a body [^{F63}, to a relevant housing provider][^{F64} or to a person who acquired that interest in exercise of the right conferred by Part IV of the Housing Act 1988].
- (2) The bodies are—
- (a) a county, [^{F65}county borough,] district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
 - (b) ^{F66} a joint authority established by Part IV of the Local Government Act ^{M25}1985;
^{F67} [the London Fire and Emergency Planning Authority;]
 - (bb) [a Mayoral development corporation;]
 - ^{F68}(bc) (c) the [^{F69}new towns residuary body] or a development corporation established by an order made, or having effect as made, under the New Towns Act ^{M26}1981;

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- (d) an urban development corporation within the meaning of Part XVI of the Local Government, Planning and Land Act ^{M27}1980;
 - ^{F70}(e)
 - ^{F71}(f) [a housing action trust established under Part III of the Housing Act 1988]
- (3) The conditions are that the lease—
- (a) provides for the tenant to acquire the freehold for a consideration which is to be calculated in accordance with the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease, and
 - (b) states the landlord’s opinion that by virtue of this paragraph the tenancy will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to a body mentioned in sub-paragraph (2) above [^{F72}or to a relevant housing provider] .
- (4) If, in proceedings in which it falls to be determined whether a lease complies with the condition in sub-paragraph (3)(a), the question arises whether the consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.
- ^{F73}(5) In this paragraph “relevant housing provider” means—
- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
 - (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

Textual Amendments

- F62** Sch. 4A para. 2 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 24(c)** (with ss. 54(5) (7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)
- F63** Words in Sch. 4A para. 2(1) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(a)** (with art. 6, Sch. 3)
- F64** Words added by **Housing Act 1988 (c. 50, SIF 61)**, s. 140, **Sch. 17 para. 17(1)**
- F65** Words in Sch. 4A para. 2(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 1(2)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, **art. 3 Sch. 1**
- F66** Words repealed by **Education Reform Act 1988 (c. 40, SIF 41:1)**, ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F67** Sch. 4A para. 2(bb) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 9** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F68** Sch. 4A para. 2(2)(bc) inserted (15.1.2012) by **Localism Act 2011 (c. 20)**, s. 240(1)(l), **Sch. 22 para. 1**
- F69** Words in Sch. 4A para. 2(2)(c) substituted (1.12.2008) by **Housing and Regeneration Act 2008 (c. 17)**, s. 325(1), **Sch. 8 para. 12**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F70** Sch. 4A para. 2(2)(e) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F71** Para. 2(2)(f) added by **Housing Act 1988 (c. 50, SIF 61)**, s. 140, **Sch. 17 para. 17(2)**
- F72** Words in Sch. 4A para. 2(3)(b) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(b)** (with art. 6, Sch. 3)
- F73** Sch. 4A para. 2(5) substituted (1.4.2010) by **The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866)**, art. 1(2), **Sch. 2 para. 2(2)(c)** (with art. 6, Sch. 3)

Marginal Citations

- M25** 1985 c.51 (81:1).

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M26 1981 c.64 (123:3).

M27 1980 c.65 (123:1, 2).

[^{F74}Certain leases granted by housing associations][^{F74}Certain housing association and other leases]

Textual Amendments

F74 Sch. 4A para. 3 cross-heading substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 301(2)**, 325(1); [S.I. 2008/3068](#), **art. 4(5)** (with **arts. 6-13**); [S.I. 2009/2096](#), **art. 2(2)(b)** (with **art. 3(1)(2)**)

- 3 (1) A lease granted by a housing association and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act, whether or not the interest of the landlord still belongs to such an association.
- (2) The conditions are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
 - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent., or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
 - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
 - ^{F75}(d)
 - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
 - (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
 - (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if of the opinion that it is just and equitable to do so, treat a lease as satisfying the conditions in sub-paragraph (2) notwithstanding that the condition specified in paragraph (g) of that sub-paragraph is not satisfied.
- (4) In this paragraph "housing association" has the same meaning as in the Housing Associations Act ^{M28}1985.

Textual Amendments

F75 Sch. 4A para. 3(2)(d) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15](#), **ss. 143(3)**, [180](#), **Sch. 14**; [S.I. 2002/1912](#), **art. 2(b)(ii)**, **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012](#), **art. 2(b)(ii)**, **Sch. 1 Pt. 3** (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

Marginal Citations

M28 1985 c.69 (61).

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- ^{F74}
^{F76}3A (1) A lease which does not fall within paragraph 3 is excluded from the operation of this Part of this Act if the lease—
- (a) meets the conditions mentioned in sub-paragraph (2);
 - (b) meets any other prescribed conditions; and
 - (c) does not fall within any prescribed exemptions.
- (2) The conditions referred to in sub-paragraph (1)(a) are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
 - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
 - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
 - (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
 - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
 - (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
 - (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition specified in paragraph (g) of that sub-paragraph is not met.]

Textual Amendments

F76 Sch. 4A para. 3A inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 301(1), 325(1)**; [S.I. 2008/3068](#), **art. 4(5)** (with **arts. 6-13**); [S.I. 2009/2096](#), **art. 2(2)(b)** (with **art. 3(1)(2)**)

- 4 (1) A lease for the elderly granted by a [^{F77}registered housing association] and which complies with the conditions set out in sub-paragraph (2) is excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to [^{F78}a relevant housing provider] .
- (2) The conditions are that the lease—
- (a) is granted at a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it,
 - (b) complies, at the time when it is granted, with such requirements as may be prescribed, and
 - (c) states the landlord's opinion that by virtue of this paragraph the lease will be excluded from the operation of this Part of this Act at any time when the interest of the landlord belongs to [^{F79}a relevant housing provider] .
- (3) In this paragraph—
- “lease for the elderly” has such meaning as may be prescribed; and

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[^{F80c}“relevant housing provider” means—

- (a) in relation to a lease of social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, a private registered provider of social housing, or
- (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996.]

Textual Amendments

- F77** Words in Sch. 4A para. 4(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 1(1)(2)(a)**
- F78** Words in Sch. 4A para. 4(1) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)
- F79** Words in Sch. 4A para. 4(2)(c) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(a)** (with art. 6, Sch. 3)
- F80** Words in Sch. 4A para. 4(3) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 2(3)(b)** (with art. 6, Sch. 3)

Certain leases in protected areas

- [^{F81}4A (1) A lease which does not fall within paragraph 3 or 3A is excluded from the operation of this Part of this Act if—
- (a) the lease meets the conditions mentioned in sub-paragraph (2);
 - (b) any provision in the lease for the tenant to acquire the landlord's interest provides for the tenant to acquire the interest on terms specified in the lease and complying with such requirements as may be prescribed;
 - (c) the lease meets any other prescribed conditions;
 - (d) the lease does not fall within any prescribed exemptions; and
 - (e) the house is in a protected area.
- (2) The conditions referred to in sub-paragraph (1)(a) are that the lease—
- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
 - (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
 - (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
 - (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
 - (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed; and
 - (f) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) The appropriate national authority may by order made by statutory instrument designate an area as a protected area if it considers it appropriate to do so to support the provision in the area of houses, or descriptions of houses, which are available for occupation in accordance with shared ownership arrangements.

Status: Point in time view as at 16/01/2012.

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- (4) The appropriate national authority must publish the criteria for the time being in force which are to be taken into account by it in deciding whether to designate an area as a protected area.
- (5) Before making an order under sub-paragraph (3) the appropriate national authority must take such steps as it considers to be reasonable to consult those likely to be affected by the order.
- (6) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition mentioned in paragraph (f) of that sub-paragraph is not met.
- (7) An order under this paragraph may contain such incidental, supplementary, transitory, transitional or saving provisions as the appropriate national authority considers appropriate.
- (8) In this paragraph “shared ownership arrangements” has the same meaning as in section 70 of the Housing and Regeneration Act 2008.
- (9) An instrument containing—
 - (a) an order of the Secretary of State under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) an order of the Welsh Ministers under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

Textual Amendments

- F81** Sch. 4A para. 4A and cross-heading inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 302(1), 325(1)**; [S.I. 2008/3068](#), **art. 4(5)** (with **arts. 6-13**); [S.I. 2009/2096](#), **art. 2(2)(b)** (with **art. 3(1)(2)**)

Power to prescribe matters by regulations

- 5 (1) The [^{F82}Secretary of State][^{F82}appropriate national authority] may by regulations prescribe anything requiring to be prescribed for the purposes of this Schedule.
- (2) The regulations may—
 - (a) make different provision for different cases or descriptions of case, including different provision for different areas, and
 - (b) contain such incidental, supplementary or transitional provisions as the [^{F83}Secretary of State][^{F83}appropriate national authority] considers appropriate,and shall be made by statutory instrument which [^{F84}, in the case of regulations made by the Secretary of State,] shall be subject to annulment in pursuance of a resolution of either House of Parliament [^{F85}and, in the case of regulations made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales].

Status: Point in time view as at 16/01/2012.

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Textual Amendments

- F82** Words in [Sch. 4A para. 5\(1\)](#) substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(2\)\(a\)](#), 325(1); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))
- F83** Words in [Sch. 4A para. 5\(2\)\(b\)](#) substituted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(2\)\(b\)\(i\)](#), 325(1); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))
- F84** Words in [Sch. 4A para. 5\(2\)](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(2\)\(b\)\(ii\)](#), 325(1); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))
- F85** Words in [Sch. 4A para. 5\(2\)](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(2\)\(b\)\(iii\)](#), 325(1); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))

Interpretation

- 6 In this Schedule “lease” means a lease at law or in equity, and references to the grant of a lease shall be construed accordingly.]
- [^{F867} In this Schedule “appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers.]

Textual Amendments

- F86** [Sch. 4A para. 7](#) inserted (1.12.2008 for E. for specified purposes, 7.9.2009 for E. in so far as not already in force) by [Housing and Regeneration Act 2008 \(c. 17\)](#), [ss. 302\(3\)](#), 325(1); [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#)); [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))

SCHEDULE 5

Section 39.

LANDLORD AND TENANT ACT 1954 PART I (CONSEQUENTIAL AMENDMENTS, EFFECT OF RENT ACT 1965, ETC.)

Consequential amendments of Landlord and Tenant Act 1954

- 1 In Schedule 3 to the ^{M29}Landlord and Tenant Act 1954, paragraph 1 shall be amended as follows:—
- (a) in sub-paragraph (e) (under which a landlord may claim possession of premises as a residence for himself or certain members of his family) after the word “mother” there shall be inserted the words “or the father or mother of his spouse”; and
 - (b) in proviso (a) (under which a landlord cannot claim possession of premises as a residence for himself or his family unless his interest ante-dated the date there mentioned) for the words “the 21st November 1950” there shall be substituted the words “the 18th February 1966” (in place of the words “the 7th November 1956” substituted by ^{M30}the Rent Act 1957).

Status: Point in time view as at 16/01/2012.

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Modifications etc. (not altering text)

- C1** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M29 1954 c. 56.

M30 1957 c. 25.

- 2 The following provisions of the Landlord and Tenant Act 1954 shall have effect as if the amendments and repeals made in them by the Rent Act 1957 in consequence of the passing of section 21 of that Act had not been made, that is to say,—
- (a) section 2 (the words “at a low rent” being re-inserted in subsections (1), (2) and (3) after the words “long tenancy” and the words “if the tenancy had not been one at a low rent” being restored in place of the words “if the tenancy had not been a long tenancy and (in the case of a tenancy at a low rent) had not been a tenancy at a low rent”);
 - (b) section 3(3) (the words “if the tenancy in question were not one at a low rent” being restored in place of the words “if the tenancy in question were not a long tenancy and (in the case of a tenancy at a low rent) were not a tenancy at a low rent”);
 - (c) section 12(2)(a) and (b) (the words “if the tenancy were not one at a low rent” being in each case restored in place of the words “if the tenancy were not a long tenancy and (in the case of a tenancy at a low rent) were not a tenancy at a low rent”);
 - (d) section 18(1) (the words “at a low rent” being re-inserted after the words “long tenancy” where first occurring);
 - (e) section 19(1) (the words “at a low rent” being re-inserted after the word “tenancy”, where first occurring, and after the words “another tenancy”, and there being omitted the words “and the second tenancy is a tenancy at a low rent”).

Modifications etc. (not altering text)

- C2** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Regulated tenancies

- 3 (1) The amount of the rent payable under a regulated tenancy arising by virtue of Part I of the ^{M31}Landlord and Tenant Act 1954 shall, subject to the provisions of that Act as to initial repairs and subject to the operation (as regards the fixing of a fair rent and otherwise) of [^{F87}the ^{M32}Rent Act 1977], be such amount as may be agreed between the landlord and the tenant or, in default of agreement, the same amount as the rent last payable under the long tenancy; . . . ^{F88}

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- (2) Where the rent payable under a statutory tenancy is arrived at in accordance with subparagraph (1) above, then [^{F89}the ^{M33}Rent Act 1977] shall apply with the following adaptations:—
- (a) ^{F90}
- (b) [^{F91}section 45(2)] (under which the rent payable for a statutory period of a tenancy is not to exceed that payable for the last contractual period) shall not apply;
- (c) [^{F92}[^{F93}sections 46 to 48] (which provide] for variations of rent in respect of changes in the burden on the landlord for rates, provision of services etc.) shall apply only if the rent is one arrived at by agreement, and shall then apply as if references to the last contractual period were references to the first statutory period.

Textual Amendments

- F87** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), **Sch. 23 para. 46 (a)**
- F88** Words substitute new s. 6(1) (b) in [Landlord and Tenant Act 1954 \(c. 56\)](#) and amend s. 7
- F89** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), **Sch. 23 para. 46 (a)**
- F90** [Para. 3\(2\) \(a\)](#) repealed by [Housing Finance Act 1972 \(c. 47\)](#), **Sch. 11 Pt. II**
- F91** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), **Sch. 23 para. 46 (b)**
- F92** Words substituted by [Rent Act 1968 \(c. 23\)](#), **Sch. 15**; continued by [Rent Act 1977 \(c. 42\)](#), **Sch. 24 para. 30**
- F93** Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), **Sch. 23 para. 46 (c)**

Modifications etc. (not altering text)

- C3** The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M31** [1954 c. 56.](#)
- M32** [1977 c. 42.](#)
- M33** [1977 c. 42.](#)

- 4 (1) In relation to a rent registered or to be registered for a dwelling-house on an application made with reference to a regulated tenancy arising by virtue of Part I of the ^{M34}Landlord and Tenant Act 1954, [^{F94}the Rent Act 1977] shall have effect subject to the provisions of this paragraph.
- (2) An application for the registration of a rent may be made by the landlord or the tenant, or jointly by the landlord and the tenant, before the commencement of the statutory tenancy, but not before the terms of that tenancy other than the amount of the rent have been agreed or determined in accordance with section 7 of the Landlord and Tenant Act 1954; and the provisions of the [^{F95}Rent Act 1977] (including the provisions of [^{F96}section 72] as to the date from which the registration takes effect) shall apply accordingly.
- (3) Where a rent is registered in pursuance of an application made by virtue of subparagraph (2) above, then a notice under [^{F97}section 45(2)(b) of the Rent Act 1977] increasing the rent payable may, if the notice is given within four weeks after the date on which the rent is registered, specify as the date from which the increase is

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to take effect any date not earlier than the commencement of the tenancy nor earlier than the date from which the registration takes effect.

- (4) Where initial repairs (within the meaning of Part I of the Landlord and Tenant Act 1954) remain to be carried out to the dwelling-house, then in determining what rent is or would be a fair rent regard shall be had under [F95section 70(1) of the Rent Act 1977] to the state of repair which may be expected to subsist after the completion of the initial repairs.
- (5) The provisions of [F94the Rent Act 1977] as to the amount of the rent recoverable shall be taken as applying to the amount before account is taken of the provisions of the Landlord and Tenant Act 1954 as to initial repairs.
- (6) Any entry in the register of a rent or of its confirmation by the rent assessment committee shall indicate that the rent is registered on an application made with reference to a statutory tenancy arising by virtue of Part I of the Landlord and Tenant Act 1954.

Textual Amendments

- F94** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(a\)](#)
- F95** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(f\)](#)
- F96** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(d\)](#)
- F97** Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(e\)](#)

Marginal Citations

- M34** [1954 c. 56.](#)

Transitional

- 5 In relation to a tenancy to which section 1 of the ^{M35}Landlord and Tenant Act 1954 applies immediately before the date of coming into operation of section 39 of this Act (in this and the following paragraphs referred to as “the operative date”), section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall not have effect if at the operative date there is in force a landlord’s notice proposing a statutory tenancy and all the terms of the tenancy have been agreed or determined in accordance with section 7 of the Landlord and Tenant Act 1954 or an application for securing their determination by the court has been made.

Marginal Citations

- M35** [1954 c. 56.](#)

- 6 (1) Subject to paragraph 7(1) below, where at the operative date (within the meaning of paragraph 5 above) a tenancy is continuing by virtue of section 3 of the Landlord and Tenant Act 1954, section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall apply to the tenancy only to the extent provided for by this paragraph.
- (2) Where at the operative date no notice under section 4 of the Landlord and Tenant Act 1954 terminating the tenancy is in force, Part I or, as the case may be, Part II

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of that Act shall apply as it would apply if the term date of the tenancy (within the meaning of Part I) had fallen on the operative date and if, in the case of a tenancy not at a low rent, it had been one at a low rent.

- (3) Where at the operative date there is in force a landlord's notice proposing a statutory tenancy, sub-paragraph (2) above shall apply as it applies in a case where there is no such notice, unless either—
 - (a) all the terms of the tenancy have been agreed or determined in accordance with section 7 of the Landlord and Tenant Act 1954 or an application for securing their determination by the court has been made; or
 - (b) Part II of that Act would in accordance with sub-paragraph (2) above apply to the tenancy.
- (4) Where a landlord's notice terminating the tenancy is in force at the operative date, and the notice ceases to have effect without the tenancy being terminated or a statutory tenancy arising, then sub-paragraph (2) above shall thereafter apply as it applies in a case where there is no such notice.
- (5) Where a statutory tenancy arises by virtue of Part I of the Landlord and Tenant Act 1954 as it applies in accordance with sub-paragraph (2) above [^{F98}the Rent Act 1977] shall have effect in relation to the statutory tenancy accordingly.
- (6) Nothing in section 39 of this Act or in sub-paragraphs (2) to (5) above shall affect the operation of any notice given by a tenant under section 5 of the Landlord and Tenant Act 1954 to terminate the tenancy, if the notice is given while section 1 of the Act applies to the tenancy.

Textual Amendments

F98 Words substituted by [Rent Act 1977 \(c. 42\), s. 155\(2\), Sch. 23 para. 46 \(g\)](#)

- 7 (1) This paragraph shall have effect in relation to tenancies of the following description, except where paragraph 5 above applies, and paragraph 6 shall not have effect in relation to them, that is to say, tenancies—
 - (a) to which section 1 of the Landlord and Tenant Act 1954 applies immediately before the operative date (within the meaning of paragraph 5 above); but
 - (b) to which in accordance with section 39 of this Act section 1 of the ^{M36}Landlord and Tenant Act 1954 can no longer apply because the rateable value of the dwelling-house on the appropriate day for purposes of [^{F99}the ^{M37}Rent Act 1977] exceeds the amount specified in section 1(1) of that Act.
- (2) Where, on section 1 of the Landlord and Tenant Act 1954 ceasing by virtue of section 39 of this Act to apply to any such tenancy, Part II of that Act would not become applicable to it, then, if the term date falls or fell before the operative date or within the three months beginning with the operative date, the tenancy shall continue until the expiration of those three months unless sooner determined by a notice given by the tenant in accordance with section 5(1) or (2) of the Landlord and Tenant Act 1954 or by a landlord's notice to resume possession given before the operative date.
- (3) Where, on section 1 of the Landlord and Tenant Act 1954 ceasing by virtue of section 39 of this Act to apply to any such tenancy, Part II of that Act would become applicable to it, section 39 of this Act and paragraphs 1 to 4 above, together with the repeals made by Part I of Schedule 7 to this Act, shall not have effect in relation

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to the tenancy if at the operative date there is in force a landlord’s notice to resume possession, or there is in force a notice given by the tenant in accordance with section 5(1) or (2) of the Landlord and Tenant Act 1954 to terminate the tenancy on a date within the three months beginning with the operative date:

Provided that this sub-paragraph shall cease to apply if the notice ceases to have effect without the tenancy being terminated.

Textual Amendments

F99 Words substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 46 \(h\)](#)

Marginal Citations

M36 [1954 c. 56](#).

M37 [1977 c. 42](#).

8 (1) Where a statutory tenancy has by virtue of Part I of the Landlord and Tenant Act 1954 arisen before the operative date (within the meaning of paragraph 5 above), the operation of Part I of that Act in relation to the tenancy shall not be affected by section 39 of this Act and paragraphs 2 to 4 above, or the repeals made by Part I of Schedule 7 to this Act, except as provided by sub-paragraph (2) below.

(2) **F100**

(4) **F101**

Textual Amendments

F100 [Sch. 5 para. 8\(2\)\(3\)](#) repealed by [Housing Finance Act 1972 \(c. 47\)](#), [Sch. 11 Pt. II](#)

F101 [Sch. 5 para. 8\(4\)](#) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), ss. 3, 5, [Sch. 1 Pt. I](#), [Sch. 4](#)

9 **F102**

Textual Amendments

F102 [Sch. 5 para. 9](#) repealed by [Rent Act 1968 \(c. 23\)](#), [Sch. 17](#)

Supplementary

[^{F103}10(1) Section 74(2) of the Rent Act 1977 (which confers power by regulations to modify certain provisions of Part IV of that Act) shall apply also to this Schedule in so far as it affects section 67 or 72 of, or Schedule 11 to, that Act.

(2) In so far as they relate to the Rent Act 1977, section 39 of this Act and this Schedule shall have effect subject to section 153 of that Act (which confers power to adapt the Act in its application to the Isles of Scilly) as if those provisions of this Act were contained in that Act.]

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Textual Amendments

F103 Para. 10 substituted by [Rent Act 1977 \(c. 42\)](#), s. 155(2), [Sch. 23 para. 46 \(i\)](#)

SCHEDULE 6

Section 40.

THE PLACES OF WORSHIP (ENFRANCHISEMENT) ACT 1920, AS AMENDED

Modifications etc. (not altering text)

C4 The text of Sch. 5 paras. 1, 2, Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Right or persons holding leasehold interest in place of worship or minister's house to acquire freehold.

- 1 (1) Where premises held under a lease to which this Act applies are held upon trust to be used for the purposes of a place of worship or, connexion with a place of worship, for the purpose of a minister's house, whether in conjunction with other purposes or not, and the premises are being used in accordance with the terms of the trust, the trustees, notwithstanding any agreement to the contrary (not being an agreement against the enlargement of the leasehold interest into a freehold contained in a lease granted or made before the passing of this Act), shall have the right as incident to their leasehold interest to enlarge that interest into a fee simple, and for that purpose to acquire the freehold and all intermediate reversions :

Provided that—

- (a) if the premises exceed two acres in extent, the trustees shall not be entitled to exercise the right in respect of more than two acres thereof ; and
 - (aa) where the person entitled to the freehold or an intermediate reversion requires that underlying minerals be excepted, the trustees shall not be entitled to acquire his interest in the minerals if proper provision is made for the support of the premises as they have been enjoyed during the lease and in accordance with the terms of the lease and of the trust ; and
 - (b) this Act shall not apply where the premises are used or prosed to be used for the purposes of a place of worship in contravention of any covenant contained in the lease under which the premises are held or in any lease superior thereto ; and
 - (c) this Act shall not apply where the premises form part of land which has been acquired by or is vested in any municipal, local or rating authority or in the owners thereof for the purposes of a railway, dock, canal or navigation under any Act of Parliament, Provisional Order or Order having the force of an Act of Parliament and the freehold reversion in the premises is held or retained by such owners for those purposes.
- (1A) Where the residence house of a benefice is held by the incumbent under a lease to which this Act applies, this Act shall have effect (with any necessary modifications) in relation to the enlargement of the incumbent's leasehold interest into a fee simple,

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and in relation to the estate so acquired, as it would have effect if the residence house were vested for that interest in trustees ; and the powers and provisions of the ^{M38}Parsonages Measure 1938 (as amended by any subsequent enactment) relating to the purchase of houses for parsonages shall apply for and in relation to the acquisition under this Act of the freehold reversion.

- (2) The lease to which this Act applies are leases (including underleases and agreements for leases or underleases), whether granted or made before the passing of this Act, for lives or a life or for a term of years where the term as originally created was a term of not less than twenty-one years, whether determinable on a life a lives or not.

Marginal Citations

M38 1938 No. 3.

Procedure for acquisition of reversionary interests.

- 2 For the purpose of acquiring such reversionary interests as aforesaid, Part I of the ^{M39}Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the ^{M40}Acquisition of Land (Authorisation Procedure) Act 1946 ; but in relation to any acquisition under this Act the following provisions shall have effect :—

- (a) in Part I of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply, and for the purposes of the said Part I “land” shall include easements in or relating to land ;
- (b) the consideration payable in respect of any intermediate reversion may, at the option of the person entitled to that reversion, be an annual rentcharge for a term corresponding to the unexpired residue of the term of the reversion ;
- (c) in determining the amount of any compensation the value of any buildings erected or improvement made by the trustees, shall be excluded ;
- (d) no allowance shall be made on account of the acquisition being compulsory ;
- (e) in determining the amount of compensation in any case where the rent reserved under the lease is less than the full annual value of the land the compensation, so far as it is payable in respect of the interest of the lessor expectant on the expiration of the term of the lease, shall not be ascertained on the basis of the rent so reserved, but, subject always to the foregoing provisions of this section, on the estimated full value of the land at the expiration of the term of the lease.

Marginal Citations

M39 1965 c. 56.

M40 1946 c. 49.

Effect of enfranchisement on covenants.

- 3 The estate in fee simple acquired by the trustees shall be held by them upon the same trusts as those upon which the leasehold interest would have been held by

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them if it had not been enlarged in to a fee simple, and shall be subject to all the same covenants and provisions relating to user and enjoyment and to all the same obligations of every kind other than the payment of rent as those to which the leasehold interest would have been subject if it had not been so enlarged, and all such covenants, provisions, and obligations shall be enforceable against the trustees and their successors in title by the persons who, but for the enlargement of the leasehold interest under this Act, would for the time being have been entitled to enforce such covenants, provisions, or obligations :

Provided that any covenant to insure against fire, whether in any particular office or not, and to reinstate and apply the insurance money in reinstating the premises in case of damage by fire, and any other covenant to do any act which may or will be beneficial to the demised premises alone, shall continue in force only where the consideration is payable in the form of a rentcharge, and so long as that rentcharge is payable.

Definition.

5 In this Act, unless the context otherwise requires—

The expression “place of worship” means any church, chapel, or other building used for public religious worship, and includes a burial ground, Sunday or Sabbath scholl or caretaker’s house attached to or used in connexion with and held upon the same trusts as a place of worship ;

The expression “freehold reversion” means the estate of fee simple in the premises subject to the lease held by the trustees and any lease superior thereto ;

The expression “intermediate reversion” means any leasehold interest in the land (whether under a lease or underlease or under an agreement for a lease or underlease) superior to the lease held by the trustees ;

The expression “trustees” means the persons in whom the leasehold premises are for the time being vested for the purposes of a place of worship or minister’s house under any trust whether express or implied and includes their predecessors in title.

Short title and extent.

- 6 (1) This Act may be cited as the PLaces of Worship (Enfranchisement) Act 1920.
 (2) This Act shall not extend to Scotland or Northern Ireland.

SCHEDULE 7

Sections 40 and 41.

REPEALS

Modifications etc. (not altering text)

- C5** The text of Sch. 7 is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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PART I

REPEALS ARISING OUT OF SECTION 39 OF THIS ACT

Chapter	Short title	Extent of repeal
14 & 15 Geo. 6. c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 16(2), the paragraph (f) added by the Rent Act 1957.
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	Section 6(4). Section 9(5). In section 43(1)(c) the words (added by the Rent Act 1957) “or subsection (1) of section 21 of the Rent Act 1957”. In Schedule 1, in paragraph 9 the words (added by the Rent Act 1957) following the word “rent”. In Schedule 2, in paragraph 1(1) the words (added by the Rent Act 1957) following the word “determination”, where last occurring. In Schedule 3, paragraph 1(d). In Schedule 5, in paragraph 7(3), the words from “under the Rent Acts” to “this Act”.
5 & 6 Eliz. 2. c. 25.	The Rent Act 1957.	Section 11(4). Section 21(2). In section 25, in subsection (1) the definitions of “long tenancy” and “tenancy at a low rent”, and in subsection (3) paragraph (b) and in paragraph (c) the words from “or” onwards. In Schedule 6, paragraphs 7 to 10, 15, 25(3) and 27.

The repeals in this Part of this Schedule are made subject to the provisions of Schedule 5 to this Act.

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PART II

REPEALS ARISING OUT OF SECTION 40 OF THIS ACT

Chapter	Short title	Extent of repeal
10 & 11 Geo. 5. c. 56.	The Places of Worship (Enfranchisement) Act 1920.	Section 4. In section 5, in the definition of “freehold reversion” the words from “and, where” onwards, and the definition of “the county court”. The Schedule.

The repeals in Part of this Schedule are made subject to the provisions of section 40(8) of this Act.

Status:

Point in time view as at 16/01/2012.

Changes to legislation:

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