

SCHEDULES.

SCHEDULE 1

Section 1.

EXTENSION OF RIGHT TO BUY TO CERTAIN CASES
WHERE LANDLORD DOES NOT OWN FREEHOLD

- 1 In section 1(8) (right to acquire freehold or long lease) and section 10(1)(a) (notice of purchase price and right to a mortgage) of the 1980 Act for the words “long lease” there shall be substituted the word “lease”.
- 2 In section 6(4)(a) of the 1980 Act (assumptions on the grant of a lease) for the words from “for 125 years” onwards there shall be substituted the words “with vacant possession for the appropriate term defined in sub-paragraph (2) of paragraph 11 of Schedule 2 to this Act (but subject to sub-paragraph (3) of that paragraph)”.
- 3 In section 14 of the 1980 Act (change of landlord after notice claiming right to buy or right to a mortgage) for the words “the freehold of” there shall be substituted the words “the interest of the landlord in”.
- 4 In section 16(1) of the 1980 Act (completion) for paragraphs (a) and (b) there shall be substituted the following paragraphs—
 - “(a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute; and
 - (b) if the landlord does not own the freehold or (whether or not the landlord owns it) the dwelling-house is a flat, a grant of a lease of the dwelling-house for the appropriate term defined in sub-paragraph (2) of paragraph 11 of Schedule 2 to this Act (but subject to sub-paragraph (3) of that paragraph);”.
- 5 At the end of section 17 of the 1980 Act (conveyance of freehold and grant of lease) there shall be inserted the words “and other matters”.
- 6 Section 18 of the 1980 Act (right to a mortgage—terms of mortgage deed) shall be renumbered as subsection (1) of that section, in that provision as so renumbered the words from “but the Secretary of State” onwards shall be omitted and after that provision as so renumbered there shall be inserted the following subsections—
 - “(2) Where the mortgagor’s interest in the dwelling-house is leasehold and the term of the lease is less than 25 years, subsection (1)(b) above shall have effect as if the reference to 25 years were a reference to the term of the lease.
 - (3) The Secretary of State may by order prescribe additional terms to be contained in any deed by which a mortgage is effected in pursuance of this Chapter or vary the provisions of subsections (1)(a) and (b) and (2) above, but only in relation to deeds executed after the order comes into force.”
- 7 In subsection (3) of section 20 of the 1980 Act (registration of title) for the words “subsection (2)” there shall be substituted the words “subsection (1)(b)” and for subsections (1) and (2) of that section there shall be substituted the following subsections—

- “(1) Where the landlord’s title to the dwelling-house is not registered—
- (a) section 123 of the Land Registration Act 1925 (compulsory registration of title) shall apply in relation to the conveyance of the freehold or the grant of a lease in pursuance of this Chapter whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force and, in the case of a lease, whether or not the lease is granted for a term of not less than 40 years;
 - (b) the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate; and
 - (c) section 8 of that Act (application for registration of leasehold land) shall apply in relation to a lease granted in pursuance of this Chapter notwithstanding that it is a lease for a term of which not more than 21 years are unexpired.

(1A) Where the landlord’s interest in the dwelling-house is a lease, a certificate under subsection (1)(b) above shall also state particulars of that lease and, with respect to each superior title, the following particulars, namely—

- (a) where it is registered, the title number;
- (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord’s lease.

(2) Where the landlord’s title to the dwelling-house is registered, section 22 of the said Act of 1925 (registration of dispositions of leaseholds) shall apply in relation to a lease granted in pursuance of this Chapter notwithstanding that it is granted for a term not exceeding 21 years.”

8 In section 24 of the 1980 Act (vesting orders)—

- (a) in subsection (3) after the word “If” there shall be inserted the words “the landlord’s title to” and the word “land” shall be omitted;
- (b) in subsection (4) after the words “an absolute title” there shall be inserted the words “or, as the case may require, a good leasehold title”; and
- (c) in subsection (5) after the word “Where” there shall be inserted the words “the landlord’s title to” and the word “land” shall be omitted.

9 After paragraph 5 of Part I of Schedule 1 to the 1980 Act (circumstances in which right to buy does not arise) there shall be inserted the following paragraph—

- “6 (1) The dwelling-house is held by the landlord on a tenancy from the Crown.
- (2) This paragraph does not apply if either—
- (a) the landlord is entitled to grant a lease in pursuance of this Chapter without the concurrence of the appropriate authority (disregarding for this purpose paragraph 19A of Schedule 2 to this Act); or
 - (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.
- (3) For the purposes of this paragraph ‘tenancy from the Crown’ means a tenancy of land in which there is a Crown interest superior to the tenancy

and "Crown interest' and "appropriate authority' in relation to a Crown interest mean respectively—

- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
- (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
- (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
- (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.”

10 (1) For paragraph 11 of Schedule 2 to the 1980 Act (terms of leases) there shall be substituted—

“11 (1) A lease shall be for the appropriate term defined in sub-paragraph (2) below (but subject to sub-paragraph (3) below) and at a rent not exceeding £10 per annum, and the following provisions shall have effect with respect to the other terms of the lease.

(2) If at the time the grant is made the landlord’s interest in the dwelling-house is not less than a lease for a term of which more than 125 years and five days are then unexpired the appropriate term is a term of not less than 125 years; in any other case it is a term expiring five days before the term of the landlord’s lease of the dwelling-house (or, as the case may require, five days before the first date on which the term of any lease under which the landlord holds any part of the dwelling-house is to expire).

(3) If the dwelling-house is a flat contained in a building which also contains one or more other flats and the landlord has, since the passing of this Act, granted a lease of one or more of them for the appropriate term, the lease of the dwelling-house may be for a term expiring at the end of the term for which the other lease (or one of the other leases) was granted.”

(2) In paragraph 12 (common use of premises and facilities) after the word “Where” there shall be inserted the words “the dwelling-house is a flat and”.

(3) In paragraph 13 of that Schedule (covenants by landlord)—

- (a) sub-paragraph (1) shall be renumbered as sub-paragraph (1A) of that paragraph;
- (b) at the beginning of that provision as so renumbered there shall be inserted the words “Subject to paragraph 13A(3) below”;
- (c) immediately before that provision as so renumbered there shall be inserted the following sub-paragraph—

“(1) This paragraph applies where the dwelling-house is a flat.”; and

- (d) in sub-paragraph (2) for the words “sub-paragraph (1)(a)” there shall be substituted the words “sub-paragraph (1A)(a)”.

(4) After paragraph 13 of that Schedule there shall be inserted the following paragraph—

Status: This is the original version (as it was originally enacted).

- “13A (1) This paragraph applies where the landlord’s interest in the dwelling-house is leasehold.
- (2) There shall be implied, by virtue of this Schedule, a covenant by the landlord to pay the rent reserved by the landlord’s lease and, except in so far as they fall to be discharged by the tenant, to discharge its obligations under the covenants contained in that lease.
- (3) A covenant implied by virtue of paragraph 13(1A) above shall not impose on the landlord any obligations which the landlord is not entitled to discharge under the provisions of the landlord’s lease or a superior lease.
- (4) Where the landlord’s lease or a superior lease or any agreement collateral to the landlord’s lease or a superior lease contains a covenant by any person imposing obligations which, but for sub-paragraph (3) above, would be imposed by a covenant implied by virtue of paragraph 13(1A) above, there shall be implied by virtue of this Schedule, a covenant by the landlord to use its best endeavours to secure that that person’s obligations under the first mentioned covenant are discharged.”
- (5) In paragraph 14 of that Schedule (covenant by tenant) for the words from “to keep” onwards there shall be substituted the following paragraphs—
- “(a) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
- (b) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.”
- (6) Paragraph 15 of that Schedule (avoidance of certain agreements) shall be renumbered as sub-paragraph (1) of that paragraph, in that provision as so renumbered paragraph (b) and the words “and paragraph 16 below” shall be omitted and after that provision as so renumbered there shall be inserted the following sub-paragraph—
- “(2) Where the dwelling-house is a flat, any provision of the lease or of any agreement collateral to it shall be void in so far as it purports—
- (a) to enable the landlord to recover from the tenant any part of any costs incurred by the landlord in discharging or insuring against any obligations imposed by a covenant implied by virtue of paragraph 13(1A)(a) or (b) above; or
- (b) to enable any person to recover from the tenant any part of any costs incurred, whether by him or by any other person, in discharging or insuring against any obligations to the like effect as obligations which, but for paragraph 13A(3) above, would be imposed by a covenant so implied;
- but subject to paragraph 16 below.”
- 11 (1) For the heading of Part IV of Schedule 2 to the 1980 Act (charges of freehold) there shall be substituted the heading “CHARGES AND OTHER MATTERS”.
- (2) In paragraph 18 of that Schedule for the words “the freehold”, where first occurring, there shall be substituted the words “the interest of the landlord”.
- (3) After paragraph 19 of that Schedule there shall be inserted the following paragraph—

- “19A Any provision of a lease held by the landlord or a superior landlord, or of any agreement (whenever made) shall be void in so far as it would otherwise—
- (a) prohibit or restrict the grant of a lease in pursuance of the right to buy or the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted; or
 - (b) authorise any forfeiture or impose on the landlord or superior landlord any penalty of disability in the event of a lease being granted in pursuance of the right to buy or of a subsequent disposal of a lease so granted.”

12 After sub-paragraph (2) of paragraph 1 of Schedule 3 to the 1980 Act (tenancies which are not secure tenancies) there shall be inserted the following sub-paragraph—

- “(2A) For the purposes of this paragraph a tenancy granted in pursuance of Chapter I of Part I of this Act is a long tenancy notwithstanding that it is granted for a term not exceeding 21 years.”