

Status: Point in time view as at 01/10/1997.

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SCHEDULES

[^{F1}SCHEDULE 6A

REDEMPTION OF LANDLORD'S SHARE

Textual Amendments

- F1** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

^{F2}Obligation to redeem landlord's share in certain circumstances

Textual Amendments

- F2** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- ^{F3}1 (1) The conveyance or grant shall contain a covenant binding on the secure tenant and his successors in title to make to the landlord, immediately after—
- (a) the making of a relevant disposal which is not an excluded disposal, or
 - (b) the expiry of the period of one year beginning with a relevant death,
- (whichever first occurs), a final payment, that is to say, a payment of the amount required to redeem the landlord's share.
- (2) A disposal is an excluded disposal for the purposes of this paragraph if—
- (a) it is a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is, or is the spouse of, the person or one of the persons by whom it is made;
 - (b) it is a vesting in a person taking under a will or intestacy; or
 - [^{F4}(c) it is a disposal in pursuance of an order under—
 - (i) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
 - (ii) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
 - (iii) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
 - (iv) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents),]
- and (in any case) an interest to which this paragraph applies subsists immediately after the disposal.

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- (3) In this paragraph “relevant death” means the death of a person who immediately before his death was the person or, as the case may be, the last remaining person entitled to an interest to which this paragraph applies.
- (4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying person.

Textual Amendments

- F3** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).
- F4** Sch. 6A para. 1(2)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 17**; S.I. 1996/2402, **art. 3**

^{F5}Right to redeem landlord's share at any time

Textual Amendments

- F5** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- ^{F62} (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title to make a final payment at any time.
- (2) The right shall be exercisable by written notice served on the landlord claiming to make a final payment.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the final payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make a final payment shall be deemed to have been withdrawn.

Textual Amendments

- F6** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

^{F7}Value of landlord's share and amount of final payment

Textual Amendments

- F7** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- ^{F83} The value of the landlord's share shall be determined by the formula -

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and the amount required to redeem that share shall be determined by the formula—

Textual Amendments

- F8** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

F⁹Final discount

Textual Amendments

- F9** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F¹⁰4** (1) Where a final payment is made by, or by two or more persons who include—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying person,
- the person or persons making the payment are entitled, subject to the following provisions of this paragraph and paragraph 5, to a final discount equal to 20 per cent. of the value of the landlord's share.
- (2) Sub-paragraph (1) shall not apply if the final payment is made after the end of the protection period, that is to say, the period of two years beginning with the time when there ceases to be an interest to which this sub-paragraph applies.
- (3) A beneficial interest in the dwelling-house is an interest to which sub-paragraph (2) applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
 - (b) a qualifying spouse.
- (4) The Secretary of State may by order made with the consent of the Treasury provide that the percentage discount shall be such percentage as may be specified in the order.
- (5) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,
 - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State necessary or expedient, and
 - (c) shall be made by statutory instrument and shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

- F10** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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F11 Restrictions on and deductions from final discount

Textual Amendments

F11 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F125** (1) Except where the Secretary of State so determines, a final discount shall not reduce the total purchase price, that is to say, the aggregate of the initial payment, the final payment and any interim payments, below the amount which would be applicable under section 131(1) in respect of the dwelling-house if the relevant time were the time when the value of the dwelling-house is agreed or determined.
- (2) The total discount, that is to say, the aggregate of the initial discount, the final discount and any interim discounts, shall not in any case reduce the total purchase price by more than the sum prescribed for the purposes of section 131(2) at the time when the value of the dwelling-house is agreed or determined.
- (3) If a final payment is made after the end of the first twelve months of the protection period, there shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to 50 per cent. of that discount.
- (4) There shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to any previous discount qualifying or, the aggregate of any previous discounts qualifying, under the provisions of section 130.
- (5) A determination under this paragraph may make different provision for different cases or descriptions of case, including different provision for different areas.

Textual Amendments

F12 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

F13 Right to make interim payment at any time

Textual Amendments

F13 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F146** (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title at any time to make to the landlord an interim payment, that is to say, a payment which—
- (a) is less than the amount required to redeem the landlord's share; but
 - (b) is not less than 10 per cent. of the value of the dwelling-house (agreed or determined in accordance with paragraph 8).

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- (2) The right shall be exercisable by written notice served on the landlord, claiming to make an interim payment and stating the amount of the interim payment proposed to be made.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the interim payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make an interim payment shall be deemed to have been withdrawn.

Textual Amendments

F14 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

^{F15}Landlord's reduced share and interim discount

Textual Amendments

F15 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- ^{F167} The landlord's share after the making of an interim payment shall be determined by the formula -
- the amount of the interim discount shall be determined by the formula—
- and the amount of any previous discount which will be recovered by virtue of the making of an interim payment shall be determined by the formula—

Textual Amendments

F16 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

^{F17}Value of dwelling-house

Textual Amendments

F17 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- ^{F188} (1) For the purposes of the final payment or any interim payment, the value of a dwelling-house is the amount which for those purposes—
- (a) is agreed at any time between the parties, or
 - (b) in default of such agreement, is determined at any time by an independent valuer,

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as the amount which, in accordance with this paragraph, is to be taken as its value at that time.

- (2) Subject to sub-paragraph (6), that value shall be taken to be the price which the interest of the secure tenant in the dwelling-house would realise if sold on the open market by a willing vendor—
 - (a) on the assumption that the liabilities mentioned in sub-paragraph (3) would be discharged by the vendor, and
 - (b) disregarding the matters specified in sub-paragraph (4).
- (3) The liabilities referred to in sub-paragraph (2)(a) are—
 - (a) any mortgages of the interest of the secure tenant,
 - (b) the liability under the covenant required by paragraph 1, and
 - (c) any liability under the covenant required by section 155(3) (repayment of discount on early disposal).
- (4) The matters to be disregarded in pursuance of sub-paragraph (2)(b) are—
 - (a) any interests or rights created over the dwelling-house by the secure tenant,
 - (b) any improvements made by the secure tenant or any of the persons mentioned in section 127(4) (certain predecessors as secure tenant), and
 - (c) any failure by the secure tenant or any of those persons—
 - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
 - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.
- (5) Sub-paragraph (6) applies where, at the time when the value of the dwelling-house is agreed or determined, the dwelling-house—
 - (a) has been destroyed or damaged by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure, and
 - (b) has not been fully rebuilt or reinstated.
- (6) That value shall be taken to include the value of such of the following as are applicable, namely—
 - (a) any sums paid or falling to be paid to the secure tenant under a relevant policy in so far as they exceed the cost of any rebuilding or reinstatement which has been carried out;
 - (b) any rights of the secure tenant under the covenant implied by paragraph 14(3) of Schedule 6 (covenant to rebuild or reinstate); and
 - (c) any rights of the secure tenant under the covenant implied by paragraph 15(4) of that Schedule (covenant to use best endeavours to secure rebuilding or reinstatement).
- (7) In sub-paragraph (6) “relevant policy” means a policy insuring the secure tenant against the risk of fire, tempest or flood or any other risk against which it is normal practice to insure.
- (8) References in this paragraph to the secure tenant include references to his successors in title.

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Textual Amendments

- F18** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

F19 Costs of independent valuation

Textual Amendments

- F19** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- F20**9 The conveyance or grant shall include provision requiring any sums falling to be paid to an independent valuer (whether by way of fees or expenses or otherwise) to be paid by the secure tenant or his successors in title.

Textual Amendments

- F20** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

F21 No charges to be made by landlord

Textual Amendments

- F21** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- F22**10 A provision of the conveyance or grant is void in so far as it purports to enable the landlord to charge the tenant or his successors in title a sum in respect of or in connection with the making of a final or interim payment.

Textual Amendments

- F22** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

F23 Other covenants and provisions

Textual Amendments

- F23** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

- F24**11 Subject to the provisions of this Schedule, the conveyance or grant may include such covenants and provisions as are reasonable in the circumstances.

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Textual Amendments

F24 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

F25 Interpretation]

Textual Amendments

F25 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

F26¹² (1) In this Schedule—

“independent valuer” means an independent valuer appointed in pursuance of provisions in that behalf contained in the conveyance or grant;

“protection period” has the meaning given by paragraph 4(2);

“qualifying person” means a qualifying spouse or a qualifying resident.

(2) A person is a qualifying spouse for the purposes of this Schedule if—

(a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;

(b) he is occupying the dwelling-house as his only or principal home immediately before that time; and

(c) he is the spouse or surviving spouse of the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or is the surviving spouse of a person who immediately before his death was entitled to such an interest;

and any reference in this paragraph to the spouse or surviving spouse of a person includes a reference to a former spouse or surviving former spouse of that person.

(3) A person is a qualifying resident for the purposes of this Schedule if—

(a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;

(b) he is occupying the dwelling-house as his only or principal home immediately before that time;

(c) he has resided throughout the period of twelve months ending with that time—

(i) with the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or

(ii) with two or more persons in succession each of whom was throughout the period of residence with him entitled to such an interest; and

(d) he is not a qualifying spouse.

(4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is the secure tenant or, as the case may be, one of the secure tenants.

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- (5) References in this Schedule to the secure tenant are references to the secure tenant or tenants to whom the conveyance or grant is made and references to the secure tenant or, as the case may be, one of the secure tenants shall be construed accordingly.
- (6) References in this Schedule to the secure tenant's successors in title do not include references to any person entitled to a legal charge having priority to the mortgage required by section 151B (mortgage for securing redemption of landlord's share) or any person whose title derives from such a charge.

Textual Amendments

F26 Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), **Sch. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

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