

SCHEDULES

SCHEDULE 3

Section 15.

COMMON PARTS GRANTS

PART I

AMENDMENTS OF PART XV OF THE HOUSING ACT 1985

- 1 (1) Section 460 of the Housing Act 1985 (general description of main grants) is amended as follows.
 - (2) In subsection (1) omit the word " and " after the reference to special grants and after the reference to repairs grants insert " common parts grants (sections 498A to 498G)".
 - (3) In subsection (2) for paragraphs (b) and (c) substitute—
 - “(b) the improvement or repair of dwellings,
 - (c) the improvement or repair of the common parts of a building including one or more flats, and”.
- 2 In section 462(1) of the Housing Act 1985 (preliminary condition for grants: the age of the property), after paragraph (b) insert “, or
 - (c) a common parts grant in respect of a building which was erected after 2nd October 1961,”.
- 3 In section 463(1) of the Housing Act 1985 (preliminary condition for eligibility for grant: the interest of the applicant in the property) for " may entertain an application for a grant only if" substitute " shall not entertain an application for a grant, other than an application for a common parts grant, unless ".
- 4 After section 464 of the Housing Act 1985 insert—

“464A Preliminary conditions for application for common parts grant.

- (1) A local housing authority shall not entertain an application for a common parts grant unless they are satisfied as regards the relevant works that the applicant either—
 - (a) has a duty to carry them out, or
 - (b) has power to carry them out and has a qualifying interest in the building or in a dwelling in the building,and that, at the date of the application, at least the required proportion of the dwellings in the building is occupied by tenants.
- (2) The following are qualifying interests for the purposes of subsection (1)(b)—
 - (a) an estate in fee simple absolute in possession ;

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- (b) a term of years absolute of which not less than five years remains unexpired at the date of the application ;
 - (c) a tenancy to which section 1 of the Landlord and Tenant Act 1954 applies (long tenancies at low rents);
 - (d) a protected tenancy, a secure tenancy, a protected occupancy or a statutory tenancy ;
 - (e) a tenancy which satisfies such conditions as may be prescribed by order of the Secretary of State.
- (3) The required proportion mentioned in subsection (1) is three-quarters or such other proportion as may be—
- (a) prescribed for the purposes of this section by order of the Secretary of State, or
 - (b) approved by him, in relation to a particular case or description of case, on application by the local housing authority;
- and " tenant" for the purposes of that requirement means a person who has an interest within any of paragraphs (b) to (e) of subsection (2) by virtue of which he occupies a dwelling in the building as his only or main residence.
- (4) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) This section has effect subject to section 513 (parsonages, applications by charities, &c.).”
- 5 In section 466(1) of the Housing Act 1985 (grants requiring consent of the Secretary of State) for " or intermediate grant" substitute " , intermediate grant or common parts grant ".
- 6 After section 498 of the Housing Act 1985 insert—

“Common parts grant

498A Works for which common parts grants may be given.

- (1) The works for which a common parts grant may be given are works required for the improvement or repair of the common parts of a building in which there are one or more flats, other than works for the provision of a dwelling.
- (2) For this purpose—
 - (a) " flat" means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building, and
 - (b) " common parts " includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more dwellings in the building.

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498B Standard of repair to be attained.

- (1) The local housing authority shall not, without the consent of the Secretary of State, approve an application for a common parts grant in respect of a building unless they are satisfied that on completion of the relevant works the common parts of the building will be in reasonable repair.
- (2) The Secretary of State's consent to the approval of applications where that standard will not be attained may be given in particular cases or in relation to descriptions of case.
- (3) If in the opinion of the authority the relevant works are more extensive than is necessary for the purpose of securing that the common parts of the building will attain that standard, the authority may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the authority necessary for that purpose; and they may then approve the application as so varied.

498C Rateable value limit.

- (1) The local housing authority shall not approve an application for a common parts grant in respect of a building if, on the date of the application, the average rateable value of the dwellings in the building exceeds the limit specified for the purposes of this section by order of the Secretary of State.
- (2) The consent of the Treasury is required for the making of an order.
- (3) An order—
 - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) For the purposes of this section—
 - (a) where a dwelling is a hereditament for which a rateable value is shown in the valuation list, the rateable value is the value shown ;
 - (b) where a dwelling forms part only of such a hereditament, or consists of or forms part of more than one such hereditament, the rateable value is such value as the local housing authority, after consultation with the applicant as to an appropriate apportionment or aggregation, shall determine.
- (5) This section does not apply to buildings in housing action areas.

498D Common parts grants are discretionary.

- (1) A local housing authority may approve an application for a common parts grant in such circumstances as they think fit.
- (2) Subsection (1) has effect subject to the following provisions (which restrict the cases in which applications may be approved)—

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section 465 (works already begun),
section 466 (cases in which consent of Secretary of State is required),
section 498B (standard of repair to be attained), and
section 498C (rateable value limit).

498E Common parts grants: estimated expense of works.

- (1) Where a local housing authority approve an application for a common parts grant, they shall determine the amount of the expenses which in their opinion are proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount.
- (2) If, after an application for a grant has been approved, the authority are satisfied that owing to circumstances beyond the control of the applicant the relevant works will not be carried out on the basis of the estimate contained in the application, they may, on receiving a further estimate, redetermine the estimated expense in relation to the grant.
- (3) If the applicant satisfies the authority that—
 - (a) the relevant works cannot be, or could not have been, carried out without carrying out additional works, and
 - (b) this could not have been reasonably foreseen at the time the application was made,the authority may determine a higher amount under subsection (1).

498F Common parts grant: limit on expense eligible for grant.

- (1) Except in a case or description of case in respect of which the Secretary of State approves a higher eligible expense, the eligible expense for the purposes of a common parts grant is so much of the estimated expense as does not exceed the prescribed amount.
- (2) In subsection (1) " the prescribed amount" means an amount prescribed, or ascertained in a manner prescribed, by order of the Secretary of State.
- (3) An order—
 - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

498G Common parts grants: determination of amount.

- (1) The amount of a common parts grant shall be fixed by the local housing authority when they approve the application, and shall not exceed the appropriate percentage of the eligible expense.
- (2) The authority shall notify the applicant of the amount of the grant together with the notification under section 498E(1) (notification of estimated expense of relevant works).

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- (3) Where the authority redetermine the amount of the estimated expense under section 498E(2) (new estimate where works cannot be carried out in accordance with original estimate), they shall make such other adjustments relating to the amount of the grant as appear to them to be appropriate; but the amount of the grant shall not be increased beyond the amount which could have been notified when the application was approved if the estimate contained in the application had been of the same amount as the further estimate.
- (4) Where the authority redetermine the amount of the estimated expense under section 498E(3) (redetermination where additional works prove necessary), the eligible expense under section 498F shall be recalculated and if on the recalculation the amount of the eligible expense is greater than it was at the time when the application was approved, the amount of the grant shall be increased and the applicant notified accordingly.”.
- 7 In section 499(3) of the Housing Act 1985 for " this Part" substitute " the following provisions of this Part down to section 507 ".
- 8 In section 511 of the Housing Act 1985 (payment of grants: general), in subsection (3)(b) for " or repairs grant " substitute " , repairs grant or common parts grant ".
- 9 In section 513 of the Housing Act 1985 (special cases: parsonages, applications by charities, &c), in subsection (2) (provisions disapplied) after the reference to section 464 omit the word " and " and insert—
- “so much of section 464A(1)(b) (preliminary conditions for application for common parts grant) as requires the applicant to have a qualifying interest in the premises, and”.
- 10 (1) Section 514 of the Housing Act 1985 (power of local housing authority to carry out works with agreement of person by whom application for grant might be made) is amended as follows.
- (2) For subsection (2) (definition of "requisite interest") substitute—
- “(2) The reference in subsection (1) to a person having the requisite interest is, except in the case of a common parts grant, to a person who has an owner's interest in every parcel of land on which the relevant works are to be carried out; and in this subsection " owner's interest" has the same meaning as in section 463(1)(f).
- (2A) The reference in subsection (1) to a person having the requisite interest is in the case of a common parts grant to a person who as regards the relevant works either—
- (a) has a duty to carry them out, or
- (b) has power to carry them out and has a qualifying interest in the building or in a dwelling in the building;
- and in this subsection ' qualifying interest' has the same meaning as in section 464A(1)(b).”.
- 11 In section 515 of the Housing Act 1985, for subsections (2) and (3) (effect on grant of disposal by applicant of his interest in the property) substitute—

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“(2) Where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to apply for a grant of that description—

- (a) in the case of an improvement grant, intermediate grant, special grant or repairs grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
- (b) in the case of a common parts grant, the local housing authority may refuse to pay the grant or any further instalment,

and the authority may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment at such reasonable rate as the authority may determine.

(3) In subsection (2) 'the certified date' means the date certified by the local housing authority as the date on which the dwelling, house or, as the case may be, the common parts of the building, first become fit for occupation or use after the completion of the relevant works to the satisfaction of the authority.

(4) For the purposes of subsection (2) an applicant ceases to be a person entitled to apply for a grant, other than a common parts grant, if he—

- (a) ceases to have an owner's interest in every parcel of land on which the relevant works are to be or have been carried out, or
- (b) ceases to be a tenant of the dwelling ;

and in this subsection 'owner's interest' and 'tenant' have the same meaning as in section 463(1)(a) and (b).

(5) For the purposes of subsection (2) an applicant ceases to be a person entitled to apply for a common parts grant if he—

- (a) ceases to have a duty to carry out the relevant works, or
- (b) ceases to have power to carry them out or to have a qualifying interest in the building or in a dwelling in the building ;

and in this subsection 'qualifying interest' has the same meaning as in section 464A(1)(b).”.

12 In section 518 of the Housing Act 1985 (meaning of "dwelling for a disabled occupant" and related expressions), for subsection (3) substitute—

“(3) In this Part 'improvement'—

- (a) in relation to a dwelling for a disabled occupant, includes the doing of works required for making the dwelling suitable for his accommodation, welfare or employment, and
- (b) in relation to the common parts of a building which includes such a dwelling, includes the doing of works required for making the common parts suitable for use by a disabled occupant of a dwelling.”.

13 Renumber section 519 of the Housing Act 1985 (meaning of "reasonable repair") as subsection (1) of that section and after it insert—

“(2) In determining what is 'reasonable repair' in relation to the common parts of a building, a local housing authority shall have regard to—

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- (a) the age and character of the building and the locality in which it is situated, and
 - (b) the character of the dwellings in the building and the period during which they are likely to be available for use as dwellings,
- and shall disregard the state of internal decorative repair of the building and the dwellings in it.”.

14 (1) Section 526 of the Housing Act 1985 (the index to Part XV) is amended as follows.

(2) At the appropriate places insert—

“common parts (for the purposes of common parts grant)	section 498A(2)(b)”
“common parts grant	sections 460 and 498A”
“flat (for the purposes of common parts grant)	Section 49A(2)(a)”.

(3) In the second column of the entry relating to the expression "eligible expense" for "and 497" substitute " , 497 and 498F ".

PART II

AMENDMENTS OF OTHER ENACTMENTS

- 15 In section 116 of the Rent Act 1977 (consent of tenant to carrying out of works), in subsection (3) (cases in which county court may empower landlord to enter in absence of consent), for "improvement or intermediate grant" substitute " improvement grant, intermediate grant or common parts grant ".
- 16 (1) Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants) is amended as follows.
- (2) In section 100 (power to reimburse cost of improvements carried out by tenant), in subsection (2) (cost to be net of grant), for " or repairs grant" substitute " , repairs grant or common parts grant ".
- (3) In section 101 (rent not to be increased on account of improvements carried out by tenant), in the second part of subsection (1) (application of provision where improvement grant-aided), for " or repairs grant" substitute " , repairs grant or common parts grant ".
- 17 In section 244 of the Housing Act 1985 (powers of local housing authority with respect to environmental works in housing action area), in subsection (3) (no assistance for grant-aided works), for " or repairs grant" substitute " , repairs grant or common parts grant ".
- 18 In section 255 of the Housing Act 1985 (powers of local housing authority in general improvement area), in subsection (2) (b) (no assistance for grant-aided works) for " or repairs grant" substitute " , repairs grant or common parts grant ".
- 19 In section 535 of the Housing Act 1985 (exclusion of assistance under Part XVI (defective housing) where grant application pending under Part XV), in

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subsection (1)(a) for " or repairs grant" substitute, " repairs grant or common parts grant ".