

SCHEDULES

SCHEDULE 8

DISCHARGE OF MORTGAGES ETC.: SUPPLEMENTARY PROVISIONS

Payments into court

- 4 (1) Where under section 35(1) any interest is to be discharged from a mortgage and, in accordance with paragraph 2(1), a person is or may be entitled in respect of the mortgage to receive the whole or part of the consideration payable, then if—
- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the mortgage, or
 - (b) for any reason mentioned in sub-paragraph (2) below difficulty arises in making a payment in respect of the mortgage,
- the nominee purchaser may pay into court on account of the consideration payable the amount, if known, of the payment to be made in respect of the mortgage or, if that amount is not known, the whole of that consideration or such lesser amount as the nominee purchaser thinks right in order to provide for that payment.
- (2) Payment may be made into court in accordance with sub-paragraph (1)(b) where the difficulty arises for any of the following reasons, namely—
- (a) because a person who is or may be entitled to receive payment cannot be found or his identity cannot be ascertained;
 - (b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
 - (c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.
- (3) Without prejudice to sub-paragraph (1)(a), the whole or part of the consideration payable shall be paid into court by the nominee purchaser if, before execution of the conveyance referred to in paragraph 2(1), notice is given to him—
- (a) that the landlord, or a person entitled to the benefit of a mortgage on the relevant interest, requires him to do so for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the landlord, or
 - (b) that steps have been taken to enforce any mortgage on the relevant interest by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;
- and where payment into court is to be made by reason only of a notice under this sub-paragraph, and the notice is given with reference to proceedings in a court specified in the notice other than a county court, payment shall be made into the court so specified.