

SCHEDULE 9A

Section 171G

LAND REGISTRATION AND RELATED MATTERS WHERE RIGHT TO BUY PRESERVED

Statement to be contained in instrument effecting qualifying disposal

1. On a qualifying disposal, the disponent shall secure that the instrument effecting the disposal—
 - (a) states that the disposal is, so far as it relates to dwelling-houses occupied by secure tenants, a disposal to which section 171A applies (preservation of right to buy on disposal to private landlord), and
 - (b) lists, to the best of the disponent's knowledge and belief, the dwelling-houses to which the disposal relates which are occupied by secure tenants.

Registration of title on qualifying disposal

2.—(1) Where, on a qualifying disposal the disponent's title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies—

- (a) whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force, and
- (b) whether or not, where the disposal takes the form of the grant or assignment of a lease, the lease is granted for a term of more than 21 years or, as the case may be, is a lease for a term of which more than 21 years are unexpired.

(2) In such a case the disponent shall give the disponentee a certificate stating that the disponent is entitled to effect the disposal subject only to such incumbrances, rights and interests as are stated in the instrument effecting the disposal or summarised in the certificate.

(3) Where the disponent's interest in the dwelling-house is a lease, the certificate shall also state particulars of the lease and, with respect to each superior title—

- (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 disponent's lease.

(4) The certificate shall be—

- (a) in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the disponent or such other person as may be approved by the Chief Land Registrar,

and the Chief Registrar shall, for the purpose of registration of title, accept the certificate as sufficient evidence of the facts stated in it.

3. Where a qualifying disposal takes the form of the grant or assignment of a lease, sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years; and accordingly section 70(1)(k) of that Act (leases which are overriding interests) does not apply.

Entries on register protecting preserved right to buy

4. The Chief Land Registrar on application being made for registration of a disposition of registered land or, as the case may be, of the disponentee's title under a disposition of unregistered land, shall, if the instrument effecting the disposal contains the statement required by paragraph 1, enter in the register—

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- (a) a notice protecting the rights of qualifying persons under this Part in relation to dwelling-houses comprised in the disposal, and
- (b) a restriction stating the requirement of consent under section 171D(2) for certain subsequent disposals of the landlord's interest.

Change of qualifying dwelling-house

5.—(1) This paragraph applies where by virtue of section 171B(6) a new dwelling-house becomes the qualifying dwelling-house which—

- (a) is entirely different from the previous qualifying dwelling-house, or
- (b) includes new land,

and applies to the new dwelling-house or the new land, as the case may be.

(2) If the landlord's title is registered, the landlord shall apply for the entry on the register of—

- (a) a notice protecting the rights of the qualifying person or persons under the provisions of this Part, and
- (b) a restriction stating the requirement of consent under section 171D(2) for certain disposals of the landlord's interest.

(3) A qualifying person may apply for the entry of such a notice and restriction and section 64(1) of the Land Registration Act 1925 (production of land certificate) does not apply to the entry of a notice or restriction on such an application; but without prejudice to the power of the Chief Land Registrar to call for the production of the certificate by the landlord.

(4) If the landlord's title is not registered, the rights of the qualifying person or persons under the provisions of this Part are registrable under the Land Charges Act 1972 in the same way as an estate contract and the landlord shall, and qualifying person may, apply for such registration.

Effect of non-registration

6.—(1) The rights of a qualifying person under this Part in relation to the qualifying dwelling-house—

- (a) shall be treated as interests to which sections 20 and 23 of the Land Registration Act 1925 apply (under which the transferee or grantee under a registered disposition takes free from estates and interests which are not protected on the register and are not overriding interests), and
- (b) shall not be treated as overriding interests for the purposes of that Act, notwithstanding that the qualifying person is in actual occupation of the land.

(2) Where by virtue of paragraph 5(4) the rights of a qualifying person under this Part in relation to the qualifying dwelling-house are registrable under the Land Charges Act 1972 in the same way as an estate contract, section 4(6) of that Act (under which such a contract may be void against a purchaser unless registered) applies accordingly, with the substitution for the reference to the contract being void of a reference to the right to buy ceasing to be preserved.

Statement required on certain disposals on which right to buy ceases to be preserved

7.—(1) A conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person in pursuance of the right to buy shall state that it is made in pursuance of the provisions of this Part as they apply by virtue of section 171A (preservation of the right to buy).

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(2) Where on a conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person otherwise than in pursuance of the right to buy the dwelling-house ceases to be subject to any rights arising under this Part, the conveyance or grant shall contain a statement to that effect.

(3) Where on a disposal of an interest in a qualifying dwelling-house the dwelling-house ceases to be subject to the rights of a qualifying person under this Part by virtue of section 171D(1)(a) or 171E(2)(a) (qualifying person becoming tenant of authority or body satisfying landlord condition for secure tenancies), the instrument by which the disposal is effected shall state that the dwelling-house ceases as a result of the disposal to be subject to any rights arising by virtue of section 171A (preservation of the right to buy).

Removal of entries on land register

8. Where the registered title to land contains an entry made by virtue of this Schedule, the Chief Land Registrar shall, for the purpose of removing or amending the entry, accept as sufficient evidence of the facts stated in it a certificate by the registered proprietor that the whole or a specified part of the land is not subject to any rights of a qualifying person under this Part.

Liability to compensate or indemnify

9.—(1) An action for breach of statutory duty lies where—

- (a) the disponent on a qualifying disposal fails to comply with paragraph 1 (duty to secure inclusion of statement in instrument effecting disposal), or
- (b) the landlord on a change of the qualifying dwelling-house fails to comply with paragraph 5(2) or (4) (duty to apply for registration protecting preserved right to buy),

and a qualifying person is deprived of the preserved right to buy by reason of the non-registration of the matters which would have been registered if that duty had been complied with.

(2) If the Chief Land Registrar has to meet a claim under the Land Registration Acts 1925 to 1986 as a result of acting upon—

- (a) a certificate given in pursuance of paragraph 2 (certificate of title on first registration),
- (b) a statement made in pursuance of paragraph 7 (statements required on disposal on which right to buy ceases to be preserved), or
- (c) a certificate given in pursuance of paragraph 8 (certificate that dwelling-house has ceased to be subject to rights under this Part),

the person who gave the certificate or made the statement shall indemnify him.

Meaning of “disposal” and “instrument effecting disposal”

10. References in this Schedule to a disposal or to the instrument effecting a disposal are to the conveyance, transfer, grant or assignment, as the case may be.