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SCHEDULE 2

PRESCRIBED FORMS

Form 5

TENANT'S REQUEST FOR INFORMATION FROM LANDLORD OR LANDLORD'S MORTGAGEE ABOUT LANDLORD'S INTEREST

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TENANT'S REQUEST FOR INFORMATION FROM LANDLORD OR LANDLORD'S MORTGAGEE ABOUT LANDLORD'S INTEREST

Section 40(3) of the Landlord and Tenant Act 1954

To: *(insert name and address of reversioner or reversioner's mortgagee in possession [see the first note below])*

From: *(insert name and address of tenant)*

1. This notice relates to the following premises: *(insert address or description of premises)*
2. In accordance with section 40(3) of the Landlord and Tenant Act 1954 I require you—
 - (a) to state in writing whether you are the owner of the fee simple in respect of the premises or any part of them or the mortgagee in possession of such an owner,
 - (b) if you answer “no” to (a), to state in writing, to the best of your knowledge and belief—
 - (i) the name and address of the person who is your or, as the case may be, your mortgagor's immediate landlord in respect of the premises or of the part in respect of which you are not, or your mortgagor is not, the owner in fee simple;
 - (ii) for what term your or your mortgagor's tenancy has effect and what is the earliest date (if any) at which that tenancy is terminable by notice to quit given by the landlord; and
 - (iii) whether a notice has been given under section 25 or 26(6) of the Landlord and Tenant Act 1954, or a request has been made under section 26 of that Act, in relation to the tenancy and, if so, details of the notice or request;
 - (c) to state in writing, to the best of your knowledge and belief, the name and address of any other person who owns an interest in reversion in any part of the premises;
 - (d) if you are a reversioner, to state in writing whether there is a mortgagee in possession of your interest in the premises; and
 - (e) if you answer “yes” to (d), to state in writing, to the best of your knowledge and belief, the name and address of the mortgagee in possession.
3. You must give the information concerned within the period of one month beginning with the date of service of this notice.
4. Please send all correspondence about this notice to:

Name:

Address:

Signed:

Date:

*[Tenant] *[on behalf of the tenant] (*delete whichever is inapplicable)

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IMPORTANT NOTE FOR LANDLORD OR LANDLORD'S MORTGAGEE

This notice contains some words and phrases that you may not understand. The Notes below should help you, but it would be wise to seek professional advice, for example, from a solicitor or surveyor, before responding to this notice.

Once you have provided the information required by this notice, you must correct it if you realise that it is not, or is no longer, correct. This obligation lasts for six months from the date of service of this notice, but an exception is explained in the next paragraph. If you need to correct information already given, you must do so within one month of becoming aware that the information is incorrect.

The obligation will cease if, after transferring your interest, you notify the tenant of the transfer and of the name and address of the person to whom your interest has been transferred.

If you fail to comply with the requirements of this notice, or the obligation mentioned above, you may face civil proceedings for breach of the statutory duty that arises under section 40 of the Landlord and Tenant Act 1954. In any such proceedings a court may order you to comply with that duty and may make an award of damages.

NOTES

The sections mentioned below are sections of the Landlord and Tenant Act 1954, as amended, (most recently by the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003)

Terms used in this notice

The following terms, which are used in paragraph 2 of this notice, are defined in section 40(8):

“mortgagee in possession” includes a receiver appointed by the mortgagee or by the court who is in receipt of the rents and profits;

“reversioner” means any person having an interest in the premises, being an interest in reversion expectant (whether immediately or not) on the tenancy; and

“reversioner’s mortgagee in possession” means any person being a mortgagee in possession in respect of such an interest.

Section 40(8) requires the reference in paragraph 2(b) of this notice to your mortgagor to be read in the light of the definition of “mortgagee in possession”.

A mortgagee (mortgage lender) will be “in possession” if the mortgagor (the person who owes money to the mortgage lender) has failed to comply with the terms of the mortgage. The mortgagee may then be entitled to receive rent that would normally have been paid to the mortgagor.

The term “the owner of the fee simple” means the freehold owner.

The term “reversioner” includes the freehold owner and any intermediate landlord as well as the immediate landlord of the tenant who served this notice.

Purpose of this notice and information required

This notice requires you to provide, in writing, the information requested in paragraph 2(a) and (c) of the notice and, if applicable in your case, in paragraph 2(b), (d) and (e). You do not need to use a special form for this purpose.

If, once you have given this information, you realise that it is not, or is no longer, correct, you must give the correct information within one month of becoming aware that the previous information is incorrect. Subject to the last paragraph in this section of these Notes, your duty to correct any information that you have already given continues for six months after you receive this notice (section 40(5)).

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You should give the correct information to the tenant who gave you this notice unless you receive notice of the transfer of his or her interest, and of the name and address of the person to whom that interest has been transferred. In that case, the correct information must be given to that person.

If you do not provide the information requested, or fail to correct information that you have provided earlier, after realising that it is not, or is no longer, correct, proceedings may be taken against you and you may have to pay damages (section 40B).

If you are in any doubt as to the information that you should give, get advice immediately from a solicitor or a surveyor.

If you transfer your interest within the period of six months referred to above, your duty to correct information already given will cease if you notify the tenant of that transfer and of the name and address of the person to whom your interest has been transferred.

Time limit for replying

You must provide the relevant information within one month of the date of service of this notice (section 40(3), (4) and (5)).

Validity of this notice

The tenant who has given you this notice may not be the person from whom you receive rent (sections 44 and 67). This does not necessarily mean that the notice is invalid.

If you have any doubts about the validity of the notice, get advice immediately from a solicitor or a surveyor.

Further information

An explanation of the main points to consider when renewing or ending a business tenancy, "Renewing and Ending Business Leases: a Guide for Tenants and Landlords", can be found at www.odpm.gov.uk. Printed copies of the explanation, but not of this form, are available from 1st June 2004 from Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7NB (0870 1226 236).