

Status: Point in time view as at 01/10/1996.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, SCHEDULE 6 is up to date with all changes known to be in force on or before 03 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 32.

PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

Commencement Information

II Sch. 6 wholly in force at 1.11.1993 see s. 188(2) and S.I. 1993/2134, art. 5

PART I

GENERAL

Interpretation and operation of Schedule

1 (1) In this Schedule—

F1

“intermediate leasehold interest” means the interest of the tenant under a lease which is superior to the lease held by a qualifying tenant of a flat contained in the specified premises, to the extent that—

- (a) any such interest is to be acquired by the nominee purchaser by virtue of section 2(1)(a), and
- (b) it is an interest in the specified premises;

[F2“the valuation date” means—

- (a) the date when it is determined, either by agreement or by a leasehold valuation tribunal under this Chapter, what freehold interest in the specified premises is to be acquired by the nominee purchaser, or
- (b) if there are different determinations relating to different freehold interests in the specified premises, the date when determinations have been made in relation to all the freehold interests in the premises.]

(2) Parts II to IV of this Schedule have effect subject to the provisions of Parts V and VI (which relate to interests with negative values).

Textual Amendments

- F1** Definition in Sch. 6 para. 1(1) repealed (1.10.1996) by 1996 c. 52, ss. 107, 227, Sch. 10 para. 18(2)(a), Sch. 19 Pt.V; S.I. 1996/2212, art. 2(2) (with savings in Sch.)
- F2** Definition in Sch. 6 para. 1(1) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(2)(b); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

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PART II

FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

- 2 (1) Subject to the provisions of this paragraph, [^{F3}where the freehold of the whole of the specified premises is owned by the same person] the price payable by the nominee purchaser for the freehold of [^{F4}those] premises shall be the aggregate of—
- (a) the value of the freeholder's interest in the premises as determined in accordance with paragraph 3,
 - (b) the freeholder's share of the marriage value as determined in accordance with paragraph 4, and
 - (c) any amount of compensation payable to the freeholder under paragraph 5.
- (2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Textual Amendments

- F3** Words in *Sch. 6 para. 2(1)* inserted (1.10.1996) by 1996 c. 52, s. 107, *Sch. 10 para. 18(3)(a)*; S.I. 1996/2212, *art. 2(2)* (with savings in *Sch.*)
- F4** Words in *Sch. 6 para. 2(1)* substituted (1.10.1996) by 1996 c. 52, s. 107, *Sch. 10 para. 18(3)(b)*; S.I. 1996/2212, *art. 2(2)* (with savings in *Sch.*)

Value of freeholder's interest

- 3 (1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with [^{F5}no person who falls within sub-paragraph (1A)] buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling for an estate in fee simple—
 - (i) subject to any leases subject to which the freeholder's interest in the premises is to be acquired by the nominee purchaser, but
 - (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;
 - (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
 - (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
 - (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to

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be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.

- [^{F6}(1A) A person falls within this sub-paragraph if he is—
- (a) the nominee purchaser, or
 - (b) a tenant of premises contained in the specified premises, or
 - ^{F7}(ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or]
 - (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—
- (a) the value of his freehold interest in it, and
 - (b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;
- and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).
- (5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—
- (a) any transaction which—
 - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or
 - (b) any alteration on or after that date of the terms on which any such superior interest is held.
- (6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).

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Textual Amendments

- F5** Words in **Sch. 6 para. 3(1)** substituted (1.10.1996) by **1996 c. 52, s. 109(2)**; S.I. 1996/2212, **art. 2(2)** (with savings in **Sch.**)
- F6** **Sch. 6 para. 3(1A)** inserted (1.10.1996) by **1996 c. 52, s. 109(3)**; S.I. 1996/2212, **art. 2(2)** (with savings in **Sch.**)
- F7** **Sch. 6 para. 3(1A)(ba)** inserted (1.10.1996) by **1996 c. 52, s. 107, Sch. 10 para. 18(4)**; S.I. 1996/2212, **art. 2(2)** (with savings in **Sch.**)

Freeholder's share of marriage value

- 4 (1) The marriage value is the amount referred to in sub-paragraph (2), and the freeholder's share of the marriage value is—
- (a) such proportion of that amount as is determined by agreement between the reversioner and the nominee purchaser or, in default of agreement, as is determined by a leasehold valuation tribunal to be the proportion which in its opinion would have been determined by an agreement made at the valuation date between the parties on a sale on the open market by a willing seller, or
 - (b) 50 per cent. of that amount,
- whichever is the greater.
- (2) The marriage value is any increase in the aggregate value of the freehold and every intermediate leasehold interest in the specified premises, when regarded as being (in consequence of their being acquired by the nominee purchaser) interests under the control of the participating tenants, as compared with the aggregate value of those interests when held by the persons from whom they are to be so acquired, being an increase in value—
- (a) which is attributable to the potential ability of the participating tenants, once those interests have been so acquired, to have new leases granted to them without payment of any premium and without restriction as to length of term, and
 - (b) which, if those interests were being sold to the nominee purchaser on the open market by willing sellers, the nominee purchaser would have to agree to share with the sellers in order to reach agreement as to price.
- (3) For the purposes of sub-paragraph (2) the value of the freehold or any intermediate leasehold interest in the specified premises when held by the person from whom it is to be acquired by the nominee purchaser and its value when acquired by the nominee purchaser—
- (a) shall be determined on the same basis as the value of the interest is determined for the purposes of paragraph 2(1)(a) or (as the case may be) paragraph 6(1)(b)(i); and
 - (b) shall be so determined as at the valuation date.
- (4) Accordingly, in so determining the value of an interest when acquired by the nominee purchaser—
- (a) the same assumptions shall be made under paragraph 3(1) (or, as the case may be, under paragraph 3(1) as applied by paragraph 7(1)) as are to be made under that provision in determining the value of the interest when held by the person from whom it is to be acquired by the nominee purchaser; and

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- (b) any merger or other circumstances affecting the interest on its acquisition by the nominee purchaser shall be disregarded.

Compensation for loss resulting from enfranchisement

- 5 (1) Where the freeholder will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
- (a) any diminution in value of any interest of the freeholder in other property resulting from the acquisition of his interest in the specified premises; and
- (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the specified premises to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) “development value”, in relation to the specified premises, means any increase in the value of the freeholder’s interest in the premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the premises.
- (5) Where the freeholder will suffer loss or damage to which this paragraph applies, then in determining the amount of compensation payable to him under this paragraph, it shall not be material that—
- (a) the loss or damage could to any extent be avoided or reduced by the grant to him, in accordance with section 36 and Schedule 9, of a lease granted in pursuance of Part III of that Schedule, and
- (b) he is not requiring the nominee purchaser to grant any such lease.

^{F8}Price payable for freehold of part of specified premises

Textual Amendments

F8 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

- ^{F9}5A (1) Where different persons own the freehold of different parts of the specified premises—
- (a) a separate price shall be payable by the nominee purchaser for the freehold of each of those parts, and
- (b) sub-paragraph (2) shall apply to determine the price so payable.
- (2) Subject to sub-paragraph (3), the price payable by the nominee purchaser for the freehold of part of the specified premises shall be the aggregate of—
- (a) the value of the freeholder’s interest in the part as determined in accordance with paragraph 3, modified as mentioned in paragraph 5B, and
- (b) the freeholder’s share of the marriage value as determined in accordance with paragraph 4, modified as mentioned in paragraph 5C, and
- (c) any amount of compensation payable to the freeholder under paragraph 5.

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- (3) Where the amount arrived at in accordance with sub-paragraph (2) is a negative amount, the price payable by the nominee purchaser for the freehold of the part shall be nil.

Textual Amendments

F9 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

- ^{F10}5B (1) In its application in accordance with paragraph 5A(2)(a), paragraph 3 shall have effect with the following modifications.
- (2) In sub-paragraph (1)(a)(ii), there shall be inserted at the end “so far as relating to the part of the premises in which the freeholder’s interest subsists”.
- (3) In sub-paragraph (1A), after paragraph (a) there shall be inserted—
 (“ an owner of a freehold interest in the specified premises, or”.
- (4) In sub-paragraph (4)—
 (a) the words “the whole of” shall be omitted, and
 (b) for “2(1)(a)” there shall be substituted “5A(2)(a)”.

Textual Amendments

F10 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

- ^{F11}5C (1) In its application in accordance with paragraph 5A(2)(b), paragraph 4 shall have effect with the following modifications.
- (2) In sub-paragraph (2)—
 (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”,
 (b) after “participating tenants”, where it first occurs, there shall be inserted “in whose flats the freeholder’s interest subsists”, and
 (c) in paragraph (a), for “the”, where it second occurs, there shall be substituted “those”.
- (3) In sub-paragraph (3)—
 (a) after “the specified premises” there shall be inserted “so far as relating to the part of the premises in which the freeholder’s interest subsists”, and
 (b) in paragraph (a), for “2(1)(a)” there shall be substituted “5A(2)(a)”.
- (4) In sub-paragraph (4)(a), after “3(1)”, where it first occurs, there shall be inserted “as applied by paragraph 5A(2)(a)”.]

Textual Amendments

F11 Sch. 6 para. 5A-5C and cross heading inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(5); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

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PART III

INTERMEDIATE LEASEHOLD INTERESTS

Price payable for intermediate leasehold interests

- 6 (1) Where the nominee purchaser is to acquire one or more intermediate leasehold interests—
- (a) a separate price shall be payable for each of those interests, and
 - (b) (subject to the provisions of this paragraph) that price shall be the aggregate of—
 - (i) the value of the interest as determined in accordance with paragraph 7, and
 - (ii) any amount of compensation payable to the owner of that interest in accordance with paragraph 8.
- (2) Where in the case of any intermediate leasehold interest the amount arrived at in accordance with sub-paragraph (1)(b) is a negative amount, the price payable by the nominee purchaser for the interest shall be nil.

Value of intermediate leasehold interests

- 7 (1) Subject to sub-paragraph (2), paragraph 3 shall apply for determining the value of any intermediate leasehold interest for the purposes of paragraph 6(1)(b)(i) with such modifications as are appropriate to relate that paragraph to a sale of the interest in question subject (where applicable) to any leases intermediate between that interest and any lease held by a qualifying tenant of a flat contained in the specified premises.
- [^{F12}(1A) In its application in accordance with sub-paragraph (1), paragraph 3(1A) shall have effect with the addition after paragraph (a) of—
- (“ an owner of a freehold interest in the specified premises, or”]
- (2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease shall be calculated by applying the formula set out in sub-paragraph (7) instead of in accordance with sub-paragraph (1).
- (3) “A minor intermediate lease” means a lease complying with the following requirements, namely—
- (a) it must have an expectation of possession of not more than one month, and
 - (b) the profit rent in respect of the lease must be not more than £5 per year;
- and, in the case of a lease which is in immediate reversion on two or more leases, those requirements must be complied with in connection with each of the sub-leases.
- (4) Where a minor intermediate lease is in immediate reversion on two or more leases—
- (a) the formula set out in sub-paragraph (7) shall be applied in relation to each of those sub-leases (and sub-paragraphs (5) and (6) shall also so apply); and
 - (b) the value of the interest of the tenant under the minor intermediate lease shall accordingly be the aggregate of the amounts calculated by so applying the formula.
- (5) “Profit rent” means an amount equal to that of the rent payable under the lease on which the minor intermediate lease is in immediate reversion, less that of the rent payable under the minor intermediate lease.

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- (6) Where the minor intermediate lease or that on which it is in immediate reversion comprises property other than a flat held by a qualifying tenant, then in sub-paragraph (5) the reference to the rent payable under it means so much of that rent as is apportioned to any such flat.
- (7) The formula is—

$$P = \pounds \frac{R}{Y} - \frac{R}{Y(1 + Y)^n}$$

where—

P = the price payable;

R = the profit rent;

Y = the yield (expressed as a decimal fraction) from 2½ per cent. Consolidated Stock;

n = the period, expressed in years (taking any part of a year as a whole year), of the remainder of the term of the minor intermediate lease as at the valuation date.

- (8) In calculating the yield from 2½ per cent. Consolidated Stock, the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the valuation date.
- (9) For the purposes of this paragraph the expectation of possession carried by a lease in relation to a lease (“the sub-lease”) on which it is in immediate reversion is the expectation of possession which it carries at the valuation date after the sub-lease, on the basis that—
- (a) (subject to sub-paragraph (10)) where the sub-lease is a lease held by a qualifying tenant of a flat contained in the specified premises, it terminates at the valuation date if its term date fell before then, or else it terminates on its term date; and
 - (b) in any other case, the sub-lease terminates on its term date.
- (10) In a case where before the relevant date for the purposes of this Chapter the landlord of any such qualifying tenant as is mentioned in sub-paragraph (9)(a) had given notice to quit terminating the tenant’s sub-lease on a date earlier than that date, the date specified in the notice to quit shall be substituted for the date specified in that provision.

Textual Amendments

F12 Sch. 6 para. 7(1A) inserted (1.10.1996) by 1996 c. 52, s. 109(4); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

Compensation for loss on acquisition of interest

- [^{F13}8] (1) Where the owner of the intermediate leasehold interest will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.

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- (2) This paragraph applies to—
- (a) any diminution in value of any interest of the owner of the intermediate leasehold interest in other property resulting from the acquisition of his interest in the specified premises; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the specified premises to the extent that it is referable as mentioned in that paragraph.
- (4) In sub-paragraph (3) “development value”, in relation to the specified premises, means any increase in the value of the interest in the premises of the owner of the intermediate leasehold interest which is attributable to the possibility of demolishing, reconstructing or carrying out substantial works of construction on, the whole or a substantial part of the premises.]

Textual Amendments

F13 Sch. 6 para. 8 substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(6); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Owners of intermediate interests entitled to part of marriage value

- 9 (1) This paragraph applies where [^{F14}paragraph 2 applies and]—
- (a) the price payable for the freehold of the specified premises includes an amount in respect of the freeholder’s share of the marriage value, and
 - (b) the nominee purchaser is to acquire any intermediate leasehold interests.
- (2) The amount payable to the freeholder in respect of his share of the marriage value shall be divided between the freeholder and the owners of the intermediate leasehold interests in proportion to the value of their respective interests in the specified premises (as determined for the purposes of paragraph 2(1)(a) or paragraph 6(1)(b) (i), as the case may be).
- (3) Where the owner of an intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the freeholder in respect of the freeholder’s share of the marriage value, the amount to which he is so entitled shall be payable to him by the freeholder.

Textual Amendments

F14 Words in Sch. 6 para. 9(1) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(7); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

- [^{F159A}(1) This paragraph applies where paragraph 5A applies and—
- (a) the price payable for the freehold of a part of the specified premises includes an amount in respect of the freeholder’s share of the marriage value, and
 - (b) the nominee purchaser is to acquire any intermediate leasehold interests which subsist in that part.

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- (2) The amount payable to the freeholder of the part in respect of his share of the marriage value shall be divided between the freeholder and the owners of the intermediate leasehold interests which subsist in that part in proportion to the value of their respective interests in the part (as determined for the purposes of paragraph 5A(2)(a) or paragraph 6(1)(b)(i), as the case may be).
- (3) Where an intermediate leasehold interest subsists not only in the part of the specified premises in which the freeholder's interest subsists ("the relevant part") but also in another part of those premises—
 - (a) the value of the intermediate leasehold interest as determined for the purposes of paragraph 6(1)(b)(i) shall be apportioned between the relevant part and the other part of the specified premises in which it subsists, and
 - (b) sub-paragraph (2) shall have effect as if the reference to the value of the intermediate leasehold interest in the relevant part as determined for the purposes of paragraph 6(1)(b)(i) were to the value of that interest as determined on an apportionment in accordance with paragraph (a).
- (4) Where the owner of an intermediate leasehold interest is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the freeholder in respect of the freeholder's share of the marriage value, the amount to which he is so entitled shall be payable to him by the freeholder.]

Textual Amendments

F15 Sch. 6 para. 9A inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(8); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

PART IV

OTHER INTERESTS TO BE ACQUIRED

Price payable for other interests

- 10 (1) Where the nominee purchaser is to acquire any freehold interest in pursuance of section 1(2)(a) or (4) or section 21(4), then (subject to sub-paragraph (3) below) the price payable for that interest shall be the aggregate of—
 - (a) the value of the interest as determined in accordance with paragraph 11,
 - (b) any share of the marriage value to which the owner of the interest is entitled under paragraph 12, and
 - (c) any amount of compensation payable to the owner of the interest in accordance with paragraph 13.
- (2) Where the nominee purchaser is to acquire any leasehold interest by virtue of section 2(1) other than an intermediate leasehold interest, or he is to acquire any leasehold interest in pursuance of section 21(4), then (subject to sub-paragraph (3) below) the price payable for that interest shall be the aggregate of—
 - (a) the value of the interest as determined in accordance with paragraph 11, and
 - (b) any amount of compensation payable to the owner of the interest in accordance with paragraph 13.

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- (3) Where in the case of any interest the amount arrived at in accordance with sub-paragraph (1) or (2) is a negative amount, the price payable by the nominee purchaser for the interest shall be nil.

Value of other interests

- 11 (1) In the case of any such freehold interest as is mentioned in paragraph 10(1), paragraph 3 shall apply for determining the value of the interest with such modifications as are appropriate to relate it to a sale of the interest subject (where applicable) to any leases intermediate between that interest and any lease held by a qualifying tenant of a flat contained in the specified premises.
- (2) In the case of any such leasehold interest as is mentioned in paragraph 10(2), then—
- (a) (unless paragraph (b) below applies) paragraph 3 shall apply as mentioned in sub-paragraph (1) above;
- (b) if it is the interest of the tenant under a minor intermediate lease within the meaning of paragraph 7, sub-paragraphs (2) to (10) of that paragraph shall apply with such modifications as are appropriate for determining the value of the interest.
- (3) In its application in accordance with sub-paragraph (1) or (2) above, paragraph 3(6) shall have effect as if the reference to paragraph 14(2) were a reference to paragraph 18(2).
- [^{F16}(4) In its application in accordance with sub-paragraph (2) above, paragraph 3(1A) shall have effect with the addition after paragraph (a) of—
- (“ an owner of a freehold interest in the specified premises, or”]

Textual Amendments

F16 Sch. 6 para. 11(4) inserted (1.10.1996) by 1996 c. 52, s. 109(5); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Marriage value

- 12 (1) Where any such freehold interest as is mentioned in paragraph 10(1) is an interest in any such property as is mentioned in section 1(3)(a)—
- (a) sub-paragraphs (2) to (4) of paragraph 4 shall apply with such modifications as are appropriate for determining the marriage value in connection with the acquisition by the nominee purchaser of that interest; and
- (b) sub-paragraph (1) of that paragraph shall apply with such modifications as are appropriate for determining the share of the marriage value to which the owner of that interest is entitled.
- (2) Where—
- (a) the owner of any such freehold interest is entitled to any share of the marriage value in respect of any such property, and
- (b) the nominee purchaser is to acquire any leasehold interests in that property superior to any lease held by a participating tenant,
- the amount payable to the owner of the freehold interest in respect of his share of the marriage value in respect of that property shall be divided between the owner of that

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interest and the owners of the leasehold interests in proportion to the value of their respective interests in that property (as determined for the purposes of paragraph 10(1) or (2), as the case may be).

- (3) Where the owner of any such leasehold interest (“the intermediate landlord”) is entitled in accordance with sub-paragraph (2) to any part of the amount payable to the owner of any freehold interest in respect of his share of the marriage value in respect of any property, the amount to which the intermediate landlord is so entitled shall be payable to him by the owner of that freehold interest.

Compensation for loss on acquisition of interest

- [^{F17}13] (1) Where the owner of any such freehold or leasehold interest as is mentioned in paragraph 10(1) or (2) (“relevant interest”) will suffer any loss or damage to which this paragraph applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This paragraph applies to—
- (a) any diminution in value of any interest in other property belonging to the owner of a relevant interest, being diminution resulting from the acquisition of the property in which the relevant interest subsists; and
 - (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (2), the kinds of loss falling within that paragraph include loss of development value in relation to the property in which the relevant interest subsists to the extent that it is referable to his ownership of any interest in other property.
- (4) In sub-paragraph (3) “development value”, in relation to the property in which the relevant interest subsists, means any increase in the value of the relevant interest which is attributable to the possibility of demolishing, reconstructing or carrying out substantial works of construction on, the whole or a substantial part of the property.]

Textual Amendments

F17 Sch. 6 para. 13 substituted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(9)**; S.I. 1996/2212, **art. 2(2)** (with savings in Sch.)

PART V

VALUATION ETC. OF INTERESTS IN SPECIFIED
PREMISES WITH NEGATIVE VALUES

Valuation of freehold and intermediate leasehold interests

- 14 (1) Where—
- (a) the value of [^{F18}a] freeholder’s interest in the specified premises (as determined [^{F18}c for the relevant purposes]), or
 - (b) the value of any intermediate leasehold interest (as determined [^{F19} for the relevant purposes]),

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is a negative amount, the value of the interest for [^{F20}those] purposes shall be nil.

- (2) Where sub-paragraph (1) applies to any intermediate leasehold ainterest whose value is a negative amount (“the negative interest”), then for the relevant purposes any interests in the specified premises superior to the negative interest and having a positive value shall be reduced in value—
- (a) beginning with the interest which is immediately superior to the negative interest and continuing (if necessary) with any such other superior interests in order of proximity to the negative interest;
 - (b) until the aggregate amount of the reduction is equal to the negative amount in question; and
 - (c) without reducing the value of any interest to less than nil.
- (3) In a case where sub-paragraph (1) applies to two or more intermediate leasehold interests whose values are negative amounts, sub-paragraph (2) shall apply separately in relation to each of those interests—
- (a) beginning with the interest which is inferior to every other of those interests and then in order of proximity to that interest; and
 - (b) with any reduction in the value of any interest for the relevant purposes by virtue of any prior application of sub-paragraph (2) being taken into account.
- [^{F21}(3A) Where sub-paragraph (2) applies—
- (a) for the purposes of paragraph 5A(2)(a), and
 - (b) in relation to an intermediate leasehold interest in relation to which there is more than one immediately superior interest,
- any reduction in value made under that sub-paragraph shall be apportioned between the immediately superior interests.]
- (4) For the purposes of sub-paragraph (2) an interest has a positive value if (apart from that sub-paragraph) its value for the relevant purposes is a positive amount.
- (5) In this Part of this Schedule “the relevant purposes”—
- (a) as respects [^{F22}a] freeholder’s interest in the specified premises, means the purposes of paragraph 2(1)(a) [^{F23}or, as the case may be, 5A(2)(a)]; and
 - (b) as respects any intermediate leasehold interest, means the purposes of paragraph 6(1)(b)(i).

Textual Amendments

- F18** Words in Sch. 6 para. 14(1)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(10)(a); S.I. 1996/2212, art. 2(2) (with saving in Sch.)
- F19** Words in Sch. 6 para. 14(1)(b) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(10)(b); S.I. 1996/2212, art. 2(2) (with saving in Sch.)
- F20** Words in Sch. 6 para. 14(1) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(10)(c); S.I. 1996/2212, art. 2(2) (with saving in Sch.)
- F21** Sch. 6 para. 14(3A) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(11); S.I. 1996/2212, art. 2(2) (with saving in Sch.)
- F22** Words in Sch. 6 para. 14(5)(a) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(12)(a); S.I. 1996/2212, art. 2(2) (with saving in Sch.)
- F23** Words in Sch. 6 para. 14(5)(a) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(12)(b); S.I. 1996/2212, art. 2(2) (with saving in Sch.)

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Calculation of marriage value

- 15 (1) Where (as determined in accordance with paragraph 4(3) and (4)) the value of any interest—
- (a) when held by the person from whom it is to be acquired by the nominee purchaser, or
 - (b) when acquired by the nominee purchaser,
- is a negative amount, then for the purposes of paragraph 4(2) the value of the interest when so held or acquired shall be nil.
- (2) Where sub-paragraph (1) above applies to any intermediate leasehold interest whose value when held or acquired as mentioned in paragraph (a) or (b) of that sub-paragraph is a negative amount, paragraph 14(2) to (4) shall apply for determining for the purposes of paragraph 4(2) the value when so held or acquired of other interests in the specified premises, as if—
- (a) any reference to paragraph 14(1) were a reference to sub-paragraph (1) above; and
 - (b) any reference to the relevant purposes were, as respects any interest, a reference to the purposes of paragraph 4(2) as it applies to the interest when so held or acquired.
- (3) References in paragraph 16 or 17 to paragraph 14(2) or (3) do not extend to that provision as it applies in accordance with sub-paragraph (2) above.
- [^{F24}(4) References in this paragraph to paragraph 4(2), (3) or (4) extend to that provision as it applies in accordance with paragraph 5A(2)(b).]

Textual Amendments

F24 Sch. 6 para. 15(4) inserted (1.10.1996) by 1996 c. 52, s. 107, **Sch. 10 para. 18(13)**; S.I. 1996/2212, **art. 2(2)** (with saving in Sch.)

Apportionment of marriage value

- 16 (1) Where paragraph 14(1) applies to an interest, the value of the interest for the purposes of paragraph 9(2) shall be nil, unless sub-paragraph (2) below applies.
- (2) In a case where paragraph 14(1) applies to [^{F25}a] freeholder's interest in the specified premises and to every intermediate leasehold interest—
- (a) sub-paragraph (1) above shall not apply for the purposes of paragraph 9(2); and
 - (b) any division falling to be made on the proportional basis referred to in paragraph 9(2) shall be so made in such a way as to secure that the greater the negativity of an interest's value the smaller the share in respect of the interest.
- (3) In a case where—
- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned ("the superior interest"), and
 - (b) after the operation of that provision there remains any interest whose value for the relevant purposes is a positive amount,

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the value of the superior interest for the purposes of paragraph 9(2) shall be the value which (in accordance with paragraph 14(2)) it has for the relevant purposes.

(4) In a case where—

- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), but
- (b) after the operation of that provision there remains no such interest as is mentioned in sub-paragraph (3)(b) above,

the value of the superior interest for the purposes of paragraph 9(2) shall be the value which it has for the relevant purposes apart from paragraph 14(2).

Textual Amendments

F25 Word in Sch. 6 para. 16(2) substituted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(14); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

Adjustment of compensation

17 (1) Where—

- (a) paragraph 14(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and
- (b) apart from this paragraph any amount of compensation is payable under paragraph 8 to the owner of any relevant inferior interest in respect of that interest,

there shall be payable to the owner of the superior interest so much of the amount of compensation as is equal to the amount of the reduction or, if less than that amount, the whole of the amount of compensation.

(2) Where—

- (a) paragraph 14(2) operates to reduce the value of two or more such superior interests as are there mentioned (“the superior interests”), and
- (b) apart from this paragraph any amount of compensation is payable under paragraph 8 to the owner of any relevant inferior interest in respect of that interest,

sub-paragraph (1) shall apply in the first instance as if the reference to the owner of the superior interest were to the owner of such of the superior interests as is furthest from the negative interest, and then, as respects any remaining amount of compensation, as if that reference were to the owner of such of the superior interests as is next furthest from the negative interest, and so on.

(3) In sub-paragraph (1) or (2) “relevant inferior interest”, in relation to any interest whose value is reduced as mentioned in that sub-paragraph (“the superior interest”), means—

- (a) the negative interest on account of which any such reduction is made, or
- (b) any other interest intermediate between that negative interest and the superior interest;

but sub-paragraph (1) shall apply in the first instance in relation to any amount of compensation payable to the owner of that negative interest, and then, for the purpose of offsetting (so far as possible) any reduction remaining to be offset in accordance with sub-paragraph (1) or (2), in relation to any amount of compensation payable to

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the owner of the interest immediately superior to that negative interest, and so on in order of proximity to it.

- (4) To the extent that an amount of compensation is payable to the owner of any interest by virtue of this paragraph—
- (a) paragraph 2(1)(c) [^{F26}, 5A(2)(c)] or 6(1)(b)(ii) shall have effect as if it were an amount of compensation payable to him, as owner of that interest, in accordance with paragraph 5 or 8, as the case may be; and
 - (b) the person who would otherwise have been entitled to it in accordance with paragraph 8 shall accordingly not be so entitled.
- (5) In a case where paragraph 14(2) applies separately in relation to two or more negative interests in accordance with paragraph 14(3), the preceding provisions of this paragraph shall similarly apply separately in relation to the reductions made on account of each of those interests, and shall so apply—
- (a) according to the order determined by paragraph 14(3)(a); and
 - (b) with there being taken into account any reduction in the amount of compensation payable to any person under paragraph 8 which results from the prior application of the preceding provisions of this paragraph.
- [^{F27}(6) Where any reduction in value under sub-paragraph (2) of paragraph 14 is apportioned in accordance with sub-paragraph (3A) of that paragraph, any amount of compensation payable by virtue of this paragraph shall be similarly apportioned.]

Textual Amendments

- F26** Words in Sch. 6 para. 17(4)(a) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(15); S.I. 1996/2212, art. 2(2) (with savings in Sch.)
- F27** Sch. 6 para. 17(6) inserted (1.10.1996) by 1996 c. 52, s. 107, Sch. 10 para. 18(16); S.I. 1996/2212, art. 2(2) (with savings in Sch.)

PART VI

VALUATION ETC. OF OTHER INTERESTS WITH NEGATIVE VALUES

Valuation of freehold and leasehold interests

- 18 (1) Where—
- (a) the value of any freehold interest (as determined in accordance with paragraph 11(1)), or
 - (b) the value of any leasehold interest (as determined in accordance with paragraph 11(2)),
- is a negative amount, the value of the interest for the relevant purposes shall be nil.
- (2) Where, in the case of any property, sub-paragraph (1) applies to any leasehold interest in the property whose value is a negative amount (“the negative interest”), then for the relevant purposes any interests in the property superior to the negative interest and having a positive value shall, if they are interests which are to be acquired by the nominee purchaser, be reduced in value—

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- (a) beginning with the interest which is nearest to the negative interest and continuing (if necessary) with any such other superior interests in order of proximity to the negative interest;
 - (b) until the aggregate amount of the reduction is equal to the negative amount in question; and
 - (c) without reducing the value of any interest to less than nil.
- (3) In a case where sub-paragraph (1) applies to two or more leasehold interests in any property whose values are negative amounts, sub-paragraph (2) shall apply separately in relation to each of those interests—
 - (a) beginning with the interest which is inferior to every other of those interests and then in order of proximity to that interest; and
 - (b) with any reduction in the value of any interest for the relevant purposes by virtue of any prior application of sub-paragraph (2) being taken into account.
- (4) For the purposes of sub-paragraph (2) an interest has a positive value if (apart from that sub-paragraph) its value for the relevant purposes is a positive amount.
- (5) In this Part of this Schedule “the relevant purposes”—
 - (a) as respects any freehold interest, means the purposes of paragraph 10(1)(a); and
 - (b) as respects any leasehold interest, means the purposes of paragraph 10(2)(a).

Calculation of marriage value

- 19 (1) Where (as determined in accordance with paragraph 4(3) and (4)) the value of any interest—
 - (a) when held by the person from whom it is to be acquired by the nominee purchaser, or
 - (b) when acquired by the nominee purchaser,is a negative amount, then for the purposes of paragraph 4(2) the value of the interest when so held or acquired shall be nil.
- (2) Where, in the case of any property, sub-paragraph (1) above applies to any leasehold interest in the property whose value when held or acquired as mentioned in paragraph (a) or (b) of that sub-paragraph is a negative amount, paragraph 18(2) to (4) shall apply for determining for the purposes of paragraph 4(2) the value when so held or acquired of other interests in the property, as if—
 - (a) any reference to paragraph 18(1) were a reference to sub-paragraph (1) above; and
 - (b) any reference to the relevant purposes were, as respects any interest, a reference to the purposes of paragraph 4(2) as it applies to the interest when so held or acquired.
- (3) In this paragraph any reference to any provision of paragraph 4 is a reference to that provision as it applies in accordance with paragraph 12(1).
- (4) References in paragraph 20 or 21 to paragraph 18(2) or (3) do not extend to that provision as it applies in accordance with sub-paragraph (2) above.

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Apportionment of marriage value

- 20 (1) Where paragraph 18(1) applies to any interest in any property to which paragraph 12(1) applies, the value of the interest for the purposes of paragraph 12(2) shall be nil, unless sub-paragraph (2) below applies.
- (2) Where, in the case of any property, paragraph 18(1) applies to every interest which is to be acquired by the nominee purchaser—
- (a) sub-paragraph (1) above shall not apply for the purposes of paragraph 12(2); and
 - (b) any division falling to be made on the proportional basis referred to in paragraph 12(2) shall be so made in such a way as to secure that the greater the negativity of an interest's value the smaller the share in respect of the interest.
- (3) Where in the case of any property—
- (a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and
 - (b) after the operation of that provision there remains any interest which is to be acquired by the nominee purchaser and whose value for the relevant purposes is a positive amount,
- the value of the superior interest for the purposes of paragraph 12(2) shall be the value which (in accordance with paragraph 18(2)) it has for the relevant purposes.
- (4) Where in the case of any property—
- (a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), but
 - (b) after the operation of that provision there remains no such interest as is mentioned in sub-paragraph (3)(b) above,
- the value of the superior interest for the purposes of paragraph 12(2) shall be the value which it has for the relevant purposes apart from paragraph 18(2).

Adjustment of compensation

- 21 (1) Where in the case of any property—
- (a) paragraph 18(2) operates to reduce the value of any such superior interest as is there mentioned (“the superior interest”), and
 - (b) apart from this paragraph any amount of compensation is payable by virtue of paragraph 13 to the owner of any relevant inferior interest in respect of that interest,
- there shall be payable to the owner of the superior interest so much of the amount of compensation as is equal to the amount of the reduction or, if less than that amount, the whole of the amount of compensation.
- (2) Where in the case of any property—
- (a) paragraph 18(2) operates to reduce the value of two or more such superior interests as are there mentioned (“the superior interests”), and
 - (b) apart from this paragraph any amount of compensation is payable by virtue of paragraph 13 to the owner of any relevant inferior interest in respect of that interest,
- sub-paragraph (1) shall apply in the first instance as if the reference to the owner of the superior interest were to the owner of such of the superior interests as is

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furthest from the negative interest, and then, as respects any remaining amount of compensation, as if that reference were to the owner of such of the superior interests as is next furthest from the negative interest, and so on.

- (3) In sub-paragraph (1) or (2) “relevant inferior interest”, in relation to any interest whose value is reduced as mentioned in that sub-paragraph (“the superior interest”), means—
- (a) the negative interest on account of which any such reduction is made, or
 - (b) any other interest in the property in question which is to be acquired by the nominee purchaser and is intermediate between that negative interest and the superior interest;
- but sub-paragraph (1) shall apply in the first instance in relation to any amount of compensation payable to the owner of that negative interest, and then, for the purpose of offsetting (so far as possible) any reduction remaining to be offset in accordance with sub-paragraph (1) or (2), in relation to any amount of compensation payable to the owner of such interest falling within paragraph (b) above as is nearest to that negative interest, and so on in order of proximity to it.
- (4) To the extent that an amount of compensation is payable to the owner of any interest by virtue of this paragraph—
- (a) paragraph 10(1)(c) or (as the case may be) paragraph 10(2)(b) shall have effect as if it were an amount of compensation payable to him, as owner of that interest, in accordance with paragraph 13; and
 - (b) the person who would otherwise have been entitled to it in accordance with paragraph 13 shall accordingly not be so entitled.
- (5) In a case where paragraph 18(2) applies separately in relation to two or more negative interests in accordance with paragraph 18(3), the preceding provisions of this paragraph shall similarly apply separately in relation to the reductions made on account of each of those interests, and shall so apply—
- (a) according to the order determined by paragraph 18(3)(a); and
 - (b) with there being taken into account any reduction in the amount of compensation payable to any person by virtue of paragraph 13 which results from the prior application of the preceding provisions of this paragraph.

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