

SCHEDULES

SCHEDULE 6

Section 72

PREMISES EXCLUDED FROM RIGHT TO MANAGE

Buildings with substantial non-residential parts

- 1 (1) This Chapter does not apply to premises falling within section 72(1) if the internal floor area—
 - (a) of any non-residential part, or
 - (b) (where there is more than one such part) of those parts (taken together), exceeds 25 per cent. of the internal floor area of the premises (taken as a whole).
- (2) A part of premises is a non-residential part if it is neither—
 - (a) occupied, or intended to be occupied, for residential purposes, nor
 - (b) comprised in any common parts of the premises.
- (3) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.
- (4) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

Buildings with self-contained parts in different ownership

- 2 Where different persons own the freehold of different parts of premises falling within section 72(1), this Chapter does not apply to the premises if any of those parts is a self-contained part of a building.

Premises with resident landlord and no more than four units

- 3 (1) This Chapter does not apply to premises falling within section 72(1) if the premises—
 - (a) have a resident landlord, and
 - (b) do not contain more than four units.
- (2) Premises have a resident landlord if—
 - (a) the premises are not, and do not form part of, a purpose-built block of flats (that is, a building which, as constructed, contained two or more flats),
 - (b) a relevant freeholder, or an adult member of a relevant freeholder's family, occupies a qualifying flat as his only or principal home, and
 - (c) sub-paragraph (4) or (5) is satisfied.

Status: This is the original version (as it was originally enacted).

- (3) A person is a relevant freeholder, in relation to any premises, if he owns the freehold of the whole or any part of the premises.
- (4) This sub-paragraph is satisfied if—
- (a) the relevant freeholder, or
 - (b) the adult member of his family,
- has throughout the last twelve months occupied the flat as his only or principal home.
- (5) This sub-paragraph is satisfied if—
- (a) immediately before the date when the relevant freeholder acquired his interest in the premises, the premises were premises with a resident landlord, and
 - (b) he, or an adult member of his family, entered into occupation of the flat during the period of 28 days beginning with that date and has occupied the flat as his only or principal home ever since.
- (6) “Qualifying flat”, in relation to any premises and a relevant freeholder or an adult member of his family, means a flat or other unit used as a dwelling—
- (a) which is contained in the premises, and
 - (b) the freehold of the whole of which is owned by the relevant freeholder.
- (7) Where the interest of a relevant freeholder in any premises is held on trust, the references in sub-paragraphs (2), (4) and (5)(b) to a relevant freeholder are to a person having an interest under the trust (whether or not also a trustee).
- (8) A person is an adult member of another’s family if he is—
- (a) the other’s spouse,
 - (b) a son, daughter, son-in-law or daughter-in-law of the other, or of the other’s spouse, who has attained the age of 18, or
 - (c) the father or mother of the other or of the other’s spouse;
- and “son” and “daughter” include stepson and stepdaughter (“son-in-law” and “daughter-in-law” being construed accordingly).

Premises owned by local housing authority

- 4 (1) This Chapter does not apply to premises falling within section 72(1) if a local housing authority is the immediate landlord of any of the qualifying tenants of flats contained in the premises.
- (2) “Local housing authority” has the meaning given by section 1 of the Housing Act 1985 (c. 68).

Premises in relation to which rights previously exercised

- 5 (1) This Chapter does not apply to premises falling within section 72(1) at any time if—
- (a) the right to manage the premises is at that time exercisable by a RTM company, or
 - (b) that right has been so exercisable but has ceased to be so exercisable less than four years before that time.
- (2) Sub-paragraph (1)(b) does not apply where the right to manage the premises ceased to be exercisable by virtue of section 73(5).

Status: This is the original version (as it was originally enacted).

- (3) A leasehold valuation tribunal may, on an application made by a RTM company, determine that sub-paragraph (1)(b) is not to apply in any case if it considers that it would be unreasonable for it to apply in the circumstances of the case.