

SCHEDULE 1

MODIFICATIONS TO PART V AS APPLIED TO THE PRESERVED RIGHT TO BUY

PART I

EXCEPTIONS AND ADAPTATIONS

1.—(1) Subject to the following provisions of this paragraph, in the provisions of Part V which apply to the preserved right to buy by virtue of these Regulations, for the expressions “secure tenant” and “tenant” substitute the expression “qualifying person”.

(2) Sub-paragraph (1) does not apply—

(a) to the references to secure tenant in—

section 171A,
section 185, and
Schedule 9A, paragraph 1;

(b) to the references to tenant in—

section 125(4),
section 125A(2)(b),
section 125B,
section 138(2) (second reference only),
section 171B, section 171H(1),
section 175(1),
section 187, the definition of “improvement contribution”,
Schedule 4, paragraphs 2 (the final word), 6(1), 9 and 10, and
Schedule 6, Part I, paragraph 6 and Part III;

(c) to the expressions “former secure tenant”, “joint tenant”, “new tenant”, “public sector tenant”, “tenant condition” and “tenant’s incumbrances”.

(d) to the expressions “secure tenant” and “tenant” when used in a modification made by these Regulations.

(3) In Schedule 6, Part III, for the word “tenant” substitute the expression “qualifying person” in the following paragraphs only—

paragraph 13 (both references),
paragraph 16 (first reference only),
paragraph 16B(4)(c), and
paragraph 16C(4)(c).

2. In section 118 (the right to buy)—

(a) in subsection (1), in paragraphs (a) and (b), for the word “dwelling-house” in the first place where it occurs substitute the words “qualifying dwelling-house”; and

(b) omit subsection (2).

3. In section 119 (qualifying period for right to buy), in subsection (2), for the words “where the secure tenancy is a joint tenancy” substitute the words “where the tenancy held by the qualifying person is a joint tenancy”.

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4. In section 122 (qualifying person's notice claiming to exercise right to buy), after subsection (3), insert–

“(4) Where the dwelling-house is occupied by two or more qualifying persons as joint tenants the right to buy may be exercised by such one or more of them as may be agreed between them.”.

5. In section 123 (claim to share right to buy with members of family) for subsection (3) substitute–

“(3) Where by such a notice any members of the qualifying person's family are validly required to share the right to buy with him, the right to buy the qualifying dwelling-house belongs to the qualifying person and those members jointly and they shall be treated as joint tenants for the purposes, in relation to that dwelling-house, of the right to buy.”.

6. In section 124 (landlord's notice admitting or denying right to buy) omit subsection (3).

7. In section 125 (landlord's notice of purchase price and other matters), in subsection (5)–

- (a) at the end of paragraph (a) insert the word “and”, and
- (b) omit the word “and” at the end of paragraph (c) and omit paragraphs (b) and (d) and the words following paragraph (d).

8. In section 125A (estimates and information about service charges), in subsection (2)(b), omit the words from “and section 450A” to the end of the subsection.

9. In section 127 (value of dwelling-house), for subsection (4) substitute–

- “(4) The persons referred to in subsection (1)(b) are–
- (a) the qualifying person or, where the qualifying person is a qualifying successor, the person who was the qualifying person before him,
 - (b) where the qualifying person is the former secure tenant, any person who, under the same tenancy, was a secure tenant before him, and
 - (c) where the qualifying person is the former secure tenant, any member of his family who, immediately before the grant of the secure tenancy, was the secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the qualifying person is a former secure tenant whose tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.”.

10. In section 128 (determination of value by district valuer) for subsection (6) substitute the following–

“(6) A notice under subsection (5) shall inform the qualifying person of the effect of sections 140, 141(1), (2) and (4) and 142(1) and (2) (landlord's notices to complete, effect of failure to comply and right to defer completion).”.

11. In section 129 (discount on right to buy and similar sales)–

- (a) in subsection (2) omit the words “, subject to any order under subsection (2A)”; and
- (b) omit subsections (2A) and (2B).

12. In section 130 (reduction of discount where previous discount given)–

- (a) in subsection (2), in paragraph (a), omit the words “or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed”; and
- (b) omit subsection (5).

13. For section 131 (limits on amount of discount) substitute the following–

- “131. Unless the landlord otherwise agrees—
- (a) the discount shall not reduce the price below the amount which, in accordance with Schedule 5A, is to be taken as representing the costs incurred by the landlord in respect of the dwelling-house and is to be treated as relevant for the purposes of this section;
 - (b) if the price before discount is below that amount there shall be no discount; and
 - (c) the discount shall not in any case reduce the price by more than £35,000.”
14. Omit sections 132 to 135 (the right to a mortgage).
15. In section 136 (change of qualifying person after notice claiming right to buy)—
- (a) for subsection (1) substitute—

“(1) Where, after a qualifying person has given a notice claiming the right to buy, a qualifying successor becomes the qualifying person in relation to the dwelling-house, the qualifying successor shall be in the same position as if the notice had been given by him and he had been the qualifying person at the time it was given.”;
 - (b) for subsections (2) and (3) substitute the following—

“(2) If a notice under section 125 (landlord’s notice of purchase price and other matters) has been served on the former qualifying person, the landlord shall serve on the new qualifying person a notice informing him of the effect of sections 140, 141(1), (2) and (4) and 142(1) and (2) (landlord’s notices to complete, effect of failure to comply and right to defer completion).

(3) The new qualifying person may then serve a notice under section 142(1)(b) (qualifying person’s notice claiming to exercise right to defer completion) within three months beginning with service on him of the landlord’s notice under subsection (2) or within that period as extended in writing by the landlord.”;
 - (c) omit subsections (4) and (5); and
 - (d) in subsection (6) for the words “new tenant” substitute the words “new qualifying person”.
16. In section 137 (change of landlord after claiming right to buy)—
- (a) in the marginal note omit the words “or right to a mortgage”;
 - (b) in subsection (1)—
 - (i) after the word “Where” insert the words “, other than in a case to which section 171D(1)(a) or section 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),”;
 - (ii) for the word “body” in each place in which that word occurs substitute the word “person”, and
 - (iii) omit the words “or the right to a mortgage”;
 - (c) in subsection (2) omit paragraph (b).
17. In section 138 (duty of landlord to convey freehold or grant lease), in subsection (1), omit the words from “and to the amount” to the words “security of the dwelling-house”.
18. In section 139 (terms and effect of conveyance or grant)—
- (a) in the marginal note omit the words “and mortgage”;
 - (b) in subsection (2) for the words before the semi-colon substitute the following – “The tenancy held by the qualifying person comes to an end on the grant to him of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part”; and
 - (c) omit subsection (3).

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19. In section 140 (landlord’s first notice to complete)–

(a) for subsection (3) substitute the following–

“(3) A notice under this section shall not be served earlier than one year after the service on the qualifying person of–

(a) where he exercises his right under section 128 (determination of value by district valuer), the notice under subsection (5) of that section (further notice by landlord after determination), or

(b) where he does not exercise that right, the notice under section 125 (landlord’s notice of purchase price and other matters).”;

(b) after subsection (3) insert the following–

“(3A) Where the qualifying person is entitled to defer completion, a notice under this section shall not be served earlier than three years after service of the notice under section 122 (qualifying person’s notice claiming to exercise right to buy), if that period expires after whichever is applicable of the periods specified in subsection (3).”;

(c) in subsection (4) omit paragraph (a) and omit the word “other” in paragraph (b); and

(d) in subsection (5) omit from the words “and to the amount” to the end of the subsection.

20. For section 142 (when qualifying person is entitled to defer completion) substitute the following–

(1) A qualifying person is entitled to defer completion if–

(a) his reckonable amount calculated in accordance with Schedule 7A (or the aggregate of such amounts where the right to buy is being exercised by more than one person) is less than the purchase price of the dwelling-house;

(b) he has, within the period mentioned below, served on the landlord a notice claiming to exercise the right to defer completion; and

(c) he has, within the same period, deposited the sum of £150 with the landlord.

(2) The notice must be served and the sum of £150 deposited within the period of three months beginning with the service on the qualifying person–

(a) where he exercises his right under section 128 (determination of value by district valuer), of the notice under subsection (5) of that section (further notice by landlord after determination), or

(b) where he does not exercise that right, of the notice under section 125 (landlord’s notice of purchase price and other matters),

or within that period as extended in writing by the landlord.

(3) Where a qualifying person has served on the landlord a notice under subsection (1) (b), the landlord shall, as soon as practicable after the date on which the notice is served, serve on the qualifying person a notice either–

(a) admitting the qualifying person’s right to defer completion, or

(b) denying it and stating the reasons why, in the landlord’s opinion, the qualifying person does not have the right.

(4) If in pursuance of a notice under this section the qualifying person deposits the sum of £150 with the landlord, then–

(a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and

- (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord's second notice to complete), the sum shall be returned to him.”.
- 21.** Omit sections 143 to 153 and Schedules 8 and 9 (the right to a shared ownership lease).
- 22.** In section 153A (qualifying person's notices of delay)–
- (a) in subsection (1)–
- (i) at the end of paragraph (b) insert the word “or” and omit paragraphs (c) and (d),
- (ii) in paragraph (e) omit the words “or his right to be granted a shared ownership lease”, and
- (iii) in the words following paragraph (e), for the words “any of the cases in paragraphs (a) to (d)” substitute the words “either of the cases in paragraphs (a) and (b)”, and omit the words from “or, if it is later” to the end of the subsection; and
- (b) in subsection (3)–
- (i) in paragraph (a) for the words “any of the cases in paragraphs (a) to (d)” substitute the words “either of the cases in paragraphs (a) and (b)”, after the words “section 124” insert the word “or” and omit the words “section 146 or section 147”, and
- (ii) in paragraph (b) omit the words “or his right to be granted a shared ownership lease”.
- 23.** In section 153B (payments of rent attributable to purchase price etc.)–
- (a) in subsection (1)–
- (i) in paragraph (b) omit the words “or, as the case may be, section 150”,
- (ii) omit paragraph (c), and
- (iii) in paragraph (d) omit the words “or, as the case may be, the notice claiming to exercise the right to be granted a shared ownership lease”;
- (b) in subsection (2) for the words “any of the paragraphs (c) to (e)” substitute the words “paragraph (d) or (e)”;
- (c) in subsection (3) omit the words “or, as the case may be, the tenant's initial contribution for the grant of a shared ownership lease”; and
- (d) in subsection (4) omit the words “or such other percentage as may be prescribed”.
- 24.** In section 154 (registration of title)–
- (a) in subsection (1)–
- (i) omit the word “or” at the end of paragraph (a) and omit paragraph (b), and
- (ii) for the words “not less than 40 years” substitute the words “more than 21 years”; and
- (b) in subsection (5) for “1971” substitute “1986”.
- 25.** In section 155 (repayment of discount on early disposal)–
- (a) in subsection (1) for the words from “shall contain” to “no discount)” substitute the words “may, at the discretion of the landlord, contain, unless there is no discount,” and add at the end of the subsection the words “but not one the effect of which would be more onerous”;
- (b) in subsection (2) omit the words “In the case of a conveyance or grant in pursuance of the right to buy”;
- (c) omit subsection (3); and
- (d) in subsection (3A) omit the word “and” at the end of paragraph (a) and omit paragraph (b).

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26. In section 156 (liability to repay is a charge on the premises)–
 - (a) in subsections (1) and (3A), for the words “required by” substitute the words “imposed by virtue of”;
 - (b) for subsection (2) substitute–
 - “(2) The charge has priority immediately after any legal charge securing an amount–
 - (a) advanced to the qualifying person for the purpose of enabling him to exercise the right to buy, or
 - (b) further advanced to him by the person who made that advance.”; and
 - (c) omit subsections (4) to (6).
27. In section 157 (restriction on disposal of dwelling-houses in National Parks, etc.)–
 - (a) in subsection (1) omit the words “a local authority, the Development Board for Rural Wales or”;
 - (b) in subsection (4) omit the words “the Secretary of State or, where the landlord is a housing association,” and omit the comma after “Housing Corporation”; and
 - (c) in subsection (5) omit the words “the Secretary of State or” and the words “he, or as the case may be,” and the comma after “the Corporation”.
28. In section 158 (consideration for reconveyance or surrender under s.157)–
 - (a) in subsection (1) for the word “tenant” substitute the words “a qualifying person (or his successor in title or a person deriving title under him or his successor)”; and
 - (b) in subsection (2)
 - (i) in paragraph (a) for the words “the covenant required by” substitute the words “a covenant imposed by virtue of”, and
 - (ii) omit the word “and” at the end of paragraph (a) and omit paragraph (b).
29. In section 162 (exempted disposals which end liability under covenants), in paragraph (a), for the words “the covenant required by” substitute the words “a covenant imposed by virtue of”.
30. Omit sections 164 to 170 (various powers of Secretary of State).
31. Omit section 171 (power to extend right to buy, etc.).
32. In section 171A (cases in which right to buy is preserved), in subsection (2), omit the words “the following provisions of”.
33. In section 171B (extent of preserved right: qualifying persons and dwelling-houses), in subsection (5)(b), for the words “became the statutory tenant or tenant as mentioned in subsection 4(a) or (b)” substitute the words “acquired the assured tenancy, became the assignee of the assured tenancy or became the tenant, as mentioned in subsection 4(a), (aa) or (b)”.
34. In subsection 171H (disposal after notice claiming to exercise right to buy, etc.)–
 - (a) in subsection (1) omit the words “or the right to a mortgage”; and
 - (b) in subsection (2) omit paragraph (b).
35. Omit section 173 (exclusion of shared ownership leases granted under this Part).
36. In section 174 (leases granted under this Part to be treated as long leases at a low rent) omit the word “and” at the end of paragraph (a) and omit paragraph (b).
37. In section 176 (notices) omit subsections (1), (2) and (5).
38. Omit section 177 (errors and omissions in notices).

- 39.** In section 178 (costs)—
- (a) in subsection (1)—
 - (i) in paragraph (a) omit the words from “the right to be granted a shared ownership lease” to the end of the paragraph,
 - (ii) omit paragraph (b), and
 - (iii) in the words following paragraph (b) omit the words “or Housing Corporation”; and
 - (b) omit subsections (2) and (3).
- 40.** In section 179 (provisions restricting right to buy, etc. of no effect)—
- (a) in subsection (1), for paragraph (a) substitute—
 - “(a) the grant of a lease in pursuance of the preserved right to buy, or”; and
 - (b) omit subsection (2).
- 41.** In section 180 (statutory declarations) for the words from the beginning of the section to the words “thinks fit” substitute the words “A landlord may if he thinks fit”.
- 42.** In section 181 (jurisdiction of county court), in subsection (1)—
- (a) in paragraph (b) omit the words “or under a shared ownership lease granted in pursuance of this Part”, and
 - (b) in the words following paragraph (b) omit the words “and paragraph 11 of Schedule 8”.
- 43.** Omit section 182 (power to repeal or amend local Acts).
- 44.** In section 184 (land let with or used for purposes of dwelling-house), in subsection (2) and in subsection (3), omit the words “or the right to be granted a shared ownership lease”.
- 45.** In section 187 (minor definitions) omit the definition of “total share”.
- 46.** In section 188 (the index of defined expressions: Part V)—
- (a) omit from the first column of the Table the following expressions together with the corresponding entries in the second column—
 - “additional share” etc.
 - “bank”
 - “building society”
 - “effective discount” etc.
 - “friendly society”
 - “full mortgage”
 - “housing trust”
 - “initial share” etc.
 - “insurance company”
 - “prescribed percentage” etc.
 - “right to further advances”
 - “total share” etc.
 - “trustee savings bank”;
 - (b) at the appropriate places in the Table insert—

“assured tenancy

section 622”

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“qualifying successor section 171B(4)”.

47. In Schedule 4 (qualifying period for right to buy and discount)–

(a) in paragraph 7–

(i) in sub-paragraph (1) omit the words “and to any order under paragraph 8” and

(ii) after sub-paragraph (3) insert–

“(4) The landlord condition is also satisfied if the interest of the landlord belonged to, or a predecessor of–

an area board established by section 1(2) of the Electricity Act 1947(1),

a community council,

an education and library board established under the Education and Libraries (Northern Ireland) Order 1986(2),

a fire authority for the purposes of the Fire Services Acts 1947 to 1959,

a government department,

an internal drainage board within the meaning of section 6 of the Land Drainage Act 1976(3),

a Minister of the Crown,

a parish council and the trustees of a parish without a parish council,

a passenger transport executive established under Part II of the Transport Act 1968(4),

a police authority,

a water authority established in accordance with section 2 of the Water Act 1973(5) and a water authority in Scotland as constituted under section 3 of the Water (Scotland) Act 1980(6),

the Agricultural and Food Research Council,

the AFRC Institute for Grassland and Animal Production,

the British Airports' Authority,

the British Broadcasting Corporation,

the British Coal Corporation,

the British Gas Corporation,

the British Railways Board,

the British Steel Corporation,

the British Waterways Board,

the Central Electricity Generating Board,

the Church Commissioners,

the Civil Aviation Authority,

the Commissioners of Northern Lighthouses,

(1) 1947 c. 54.

(2) S.I. 1986/594 (N.I. 3).

(3) 1976 c. 70.

(4) 1968 c. 73.

(5) 1973 c. 37.

(6) 1980 c. 45.

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the Countryside Commission for Scotland,
the Electricity Council,
The Fire Authority for Northern Ireland constituted under the Fire Services (Northern Ireland) Order 1984(7),
the Highlands and Islands Development Board,
the Historic Buildings and Monuments Commission for England,
the Lake District Special Planning Board,
the Lee Valley Regional Park Authority,
London Regional Transport,
the Medical Research Council,
the National Bus Company,
the National Library of Wales,
the National Museum of Wales,
the Natural Environment Research Council,
the Nature Conservancy Council,
the North of Scotland Hydro-Electric Board,
the Northern Ireland Electricity Service established under the Electricity Supply (Northern Ireland) Order 1972(8),
the Northern Ireland Transport Holding Company established under the Transport Act (Northern Ireland) 1967(9),
the Peak Park Joint Planning Board,
the Police Authority for Northern Ireland,
the Post Office,
the Science and Engineering Research Council,
the Scottish Sports Council,
the South of Scotland Electricity Board,
the Sports Council, the Sports Council for Wales,
the Sports Council for Northern Ireland,
the Trinity House,
the United Kingdom Atomic Energy Authority,
the Welsh Development Agency.

(5) The landlord condition is not satisfied if the interest of the landlord belonged to the Trinity House, where the dwelling-house was held otherwise than in connection with its functions as a general lighthouse authority within the meaning of section 634 of the Merchant Shipping Act 1894(10).”;

(b) omit paragraph 8.

48. In Schedule 5 (exceptions to the right to buy)—

(a) omit paragraphs 1 (charities) and 3 (certain housing associations), and

(7) S.I. 1984/1821 (N.I. 11).

(8) S.I. 1972/1072 (N.I. 9).

(9) 1967 c. 37 (N.I.).

(10) 1894 c. 60.

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- (b) in paragraph 11, in sub-paragraph (1)(a)(ii), for the words “a predecessor of the tenant or a person qualified to succeed the tenant by virtue of Part IV of the Housing Act 1985” substitute the words “a previous tenant or a person qualified to succeed the tenant under section 17 of the Housing Act 1988(11) (succession to assured periodic tenancy by spouse)”.
- 49.** In Schedule 6 (conveyance of freehold and grant of lease in pursuance of right to buy)–
- (a) in Part I (common provisions)–
 - (i) in paragraphs 2(2)(a) and (b), for the words “the secure tenancy” substitute the words “his tenancy”,
 - (ii) in paragraph 4, for the words “the secure tenancy” substitute the words “the qualifying person’s tenancy”,
 - (iii) in paragraph 6, for the word “tenant” substitute the words “transferee or grantee”, and
 - (iv) in paragraph 7, in the definition of “tenant’s incumbrance”, in sub-paragraph (a) for the words “the secure tenancy” substitute the words “the qualifying person’s tenancy” and in sub-paragraph (b), for the words “the secure tenancy” substitute the words “that tenancy”;
 - (b) in Part III (leases)–
 - (i) in paragraph 12 omit sub-paragraph (3),
 - (ii) in paragraph 13 for the words “the secure tenancy” substitute the words “his tenancy” and
 - (iii) omit paragraph 16D and add the following paragraphs–

“Inflation allowances

16E. The inflation allowance for the purposes of paragraphs 16B(2) and 16C(3) shall be calculated, in respect of each item, by the formula–

$$I = \left(E \times \frac{C}{P} \right) - E$$

where–

- C = the index figure relating to the last date in the initial period on which costs were incurred in respect of the item (whether or not such costs were the full costs incurred in respect of that item),
- E = the amount shown in the estimates contained in the notice under section 125 (landlord’s notice of purchase price etc.) as the tenant’s estimated contribution in respect of that item,
- I = the inflation allowance,
- P = the index figure relating to the date on which the landlord served the notice on the qualifying person, and

the “index figure” is an index figure in the “Public sector housing repair and maintenance cost index” in the “Housing and Construction Statistics”

(11) 1988 c. 50.

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published from time to time by Her Majesty's Stationery Office, but does not include a provisional index figure.

16F.—(1) The inflation allowance for the purposes of paragraph 16B(3)(a) shall be calculated by the formula—

$$I = \left(A \times \frac{C}{P} \right) - A$$

(2) The inflation allowance for the purposes of paragraph 16B(3)(b) shall be calculated by the formula—

$$I = \left(R \times \frac{C}{P} \right) - R$$

(3) In this paragraph—

(i)

A = the amount shown in the estimates contained in the notice under section 125 (landlord's notice of purchase price etc.) as the estimated annual average amount,

C = the index figure relating to the date on which the tenant is required to pay the relevant charge for which the inflation allowance is being calculated, or, if earlier, the date the initial period ends,

I = the inflation allowance,

P = the index figure relating to the date on which the landlord served the notice on the qualifying person, and

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- (ii) “Index figure” means an index figure in the “Public sector housing repair and maintenance cost index” in the “Housing and Construction Statistics” published from time to time by Her Majesty’s Stationery Office, but does not include a provisional index figure.

Information for tenants

16G.—(1) The information which must be given to a tenant when he is asked to pay a relevant charge in respect of works itemised in the estimates is—

- (a) a description of the works to which the relevant charge relates, together with an identification of the item in the estimates contained in the notice under section 125 (landlord’s notice of purchase price etc.) to which the works relate,
- (b) whether or not further costs will be incurred in respect of which item in the initial period; and, if not, the last date in the initial period on which costs were incurred in respect of the item (whether or not further costs will be incurred after the end of the initial period),
- (c) the amount of any payment made by a predecessor in title of the tenant in respect of such item, and
- (d) an explanation in simple terms of the provisions of paragraphs 16B to 16E, to the extent that they are relevant.

(2) In this paragraph “relevant charge” means a service charge or an improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.

16H.—(1) The information which must be given to a tenant when he is asked to pay a relevant charge in respect of works not itemised in the estimates contained in the notice under section 125 (landlord’s notice of purchase price etc.) is—

- (a) a description of the works or that part of the works to which the relevant charge relates,
- (b) the extent to which costs were incurred in respect of such works or part of the works in—
 - (i) any part of the initial period falling within the reference period, and
 - (ii) any part of the initial period not falling within the reference period,
- (c) the amount of any payment made by a predecessor in title of the tenant which is relevant in relation to such works, and
- (d) an explanation in simple terms of the provisions of paragraph 16B and paragraphs 16E and 16F, to the extent that they are relevant.

(2) In this paragraph “relevant charge” means a service charge or an improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.”.

50. Omit Schedule 7 (mortgage in pursuance of right to a mortgage).

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