



# Housing Act 1985

## 1985 CHAPTER 68

### PART V

#### THE RIGHT TO BUY

##### *Provisions affecting future disposals*

#### **155 Repayment of discount on early disposal.**

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to buy, there is no discount) a covenant binding on the secure tenant and his successors in title to the following effect.
- (2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay to the landlord on demand, if within a period of five years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the secure tenant was entitled, reduced by 20 per cent. for each complete year which has elapsed after the conveyance or grant and before the disposal.
- (3) In the case of a grant in pursuance of the right to be granted a shared ownership lease, the covenant shall be to pay to the landlord on demand, if within a period of five years commencing with the acquisition by the tenant of his initial share or the acquisition by him of an additional share there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the aggregate of—
  - (a) the effective discount (if any) to which the tenant was entitled on the acquisition of his initial share, and
  - (b) for each additional share, the effective discount (if any) to which the tenant was entitled on the acquisition of that share,reduced, in each case, by 20 per cent. for each complete year which has elapsed after the acquisition and before the disposal.

**156 Liability to repay is a charge on the premises.**

- (1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
  - (a) left outstanding by the tenant in exercising the right to buy or the right to be granted a shared ownership lease, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to exercise that right, or
  - (c) further advanced to him by that institution;
 but the landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the tenant by that institution
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- (4) The approved lending institutions for the purposes of this section are—
  - the Housing Corporation,
  - a building society,
  - a bank
  - a trustee savings bank,
  - an insurance company,
  - a friendly society,
 and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.
- (5) An order under subsection (4)—
  - (a) shall be made by statutory instrument, and
  - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.

**157 Restriction on disposal of dwelling-houses in National Parks, etc.**

- (1) Where in pursuance of this Part a conveyance or grant is executed by a local authority, the Development Board for Rural Wales or a housing association (“the landlord”) of a dwelling-house situated in—
  - (a) a National Park,
  - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
  - (c) an area designated by order of the Secretary of State as a rural area,

---

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

---

the conveyance or grant may contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.

- (2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3).
- (3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—
  - (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
  - (b) had his only or principal home in such a region;or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.
- (4) If the Secretary of State or, where the landlord is a housing association, the Housing Corporation, consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—
  - (a) the tenant (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
  - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Secretary of State or the Housing Corporation under subsection (4) may be given subject to such conditions as he or, as the case may be, the Corporation, thinks fit.
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void.
- (7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of the Land Registration Act 1925.
- (8) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **158 Consideration for reconveyance or surrender under s. 157.**

- (1) The consideration for the offer by a tenant, referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord shall be such amount as may be agreed between

---

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

---

the parties or determined by the district valuer as being the amount which is to be taken as the value of the dwelling-house at the time the offer is made.

- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—
- (a) the covenant required by section 155 (repayment of discount on early disposal), and
  - (b) any covenant required by paragraph 6 of Schedule 8 (payment for outstanding share on disposal of dwelling-house subject to shared ownership lease),
- would be discharged by the vendor.
- (3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

#### **159 Relevant disposals.**

- (1) A disposal, whether of the whole or part of the dwelling-house, is a relevant disposal for the purposes of this Part if it is—
- (a) a further conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
  - (b) that any option to terminate a lease or sub-lease is not exercised.

#### **160 Exempted disposals.**

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) it is a disposal of the whole of the dwelling-house and a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
  - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the dwelling-house in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
  - (d) it is a compulsory disposal (as defined in section 161); or
  - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—

- (a) he is the person, or one of the persons, by whom the disposal is made,
- (b) he is the spouse or a former spouse of that person, or one of those persons, or
- (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.

**161 Meaning of “compulsory disposal”.**

In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

**162 Exempted disposals which end liability under covenants.**

Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house)—

- (a) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

**163 Treatment of options.**

- (1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 157(2) (requirement of consent to disposal of dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.