



# Housing Act 1985

## 1985 CHAPTER 68

### PART V

#### THE RIGHT TO BUY

##### *The right to buy*

#### **118 The right to buy.**

- (1) A secure tenant has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house;
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.
- (2) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy belongs jointly to all of them or to such one or more of them as may be agreed between them; but such an agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.

#### **119 Qualifying period for right to buy.**

- (1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.
- (2) Where the secure tenancy is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

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**120 Exceptions to the right to buy.**

The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

**121 Circumstances in which the right to buy cannot be exercised.**

- (1) The right to buy cannot be exercised if the tenant is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.
- (2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—
  - (a) has a bankruptcy petition pending against him,
  - (b) has a receiving order in force against him,
  - (c) is an undischarged bankrupt, or
  - (d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

*Claim to exercise right to buy*

**122 Tenant's notice claiming to exercise right to buy.**

- (1) A secure tenant claims to exercise the right to buy by written notice to that effect served on the landlord.
- (2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.
- (3) The notice may be withdrawn at any time by notice in writing served on the landlord.

**123 Claim to share right to buy with members of family.**

- (1) A secure tenant may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him.
- (2) He may validly do so in the case of any such member only if—
  - (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
  - (b) the landlord consents.
- (3) Where by such a notice any members of the tenant's family are validly required to share the right to buy with the tenant, the right to buy belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Part as joint tenants.

**124 Landlord's notice admitting or denying right to buy.**

- (1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within the period specified in subsection (2) a written notice either—

- (a) admitting his right, or
  - (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to buy.
- (2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or periods during which the landlord was the landlord on which the tenant's notice under section 122 was served, and eight weeks in any other case.
- (3) A landlord's notice under this section shall inform the tenant of any application for a determination under paragraph 11 of Schedule 5 (determination that right to buy not to be capable of exercise) and, in the case of a notice admitting the tenant's right to buy, is without prejudice to any determination made on such an application.

### **125 Landlord's notice of purchase price and other matters.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—
- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
  - (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest).
- serve on the tenant a notice complying with this section.
- (2) The notice shall describe the dwelling-house, shall state the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—
- (a) the value at the relevant time,
  - (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
  - (c) the discount to which the tenant is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).
- (3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.
- (4) Where the notice states provisions which would enable the landlord to recover from the tenant service charges (within the meaning of section 18 of the Landlord and Tenant Act 1985 or section 46 of this Act), the notice shall also state—
- (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge, and
  - (b) the aggregate of those estimated amounts.
- (5) The notice shall also inform the tenant of—
- (a) his right under section 128 to have the value of the dwelling-house at the relevant time determined or redetermined by the district valuer,
  - (b) the right to a mortgage and the effect of sections 134 and 135 (procedure for claiming to exercise that right).

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- (c) 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), and
  - (d) the effect of the provisions of this Part relating to the right to be granted a shared ownership lease;
- and the notice shall be accompanied by a form for use by the tenant in claiming to exercise the right to a mortgage.

### *Purchase price*

#### **126 Purchase price.**

- (1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Part is—
  - (a) the amount which under section 127 is to be taken as its value at the relevant time, less
  - (b) the discount to which the purchaser is entitled under this Part.
- (2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

#### **127 Value of dwelling-house.**

- (1) The value of a dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—
  - (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3), and
  - (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the dwelling-house in good internal repair.
- (2) For a conveyance the assumptions are—
  - (a) that the vendor was selling for an estate in fee simple with vacant possession,
  - (b) that neither the tenant nor a member of his family residing with him wanted to buy, and
  - (c) that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—
  - (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6 (but subject to sub-paragraph (3) of that paragraph).
  - (b) that neither the tenant nor a member of his family residing with him wanted to take the lease,
  - (c) that the ground rent would not exceed £10 per annum, and
  - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
  - (a) the secure tenant,
  - (b) any person who under the same tenancy was a secure tenant before him, and

- (c) any member of his family who immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the secure tenant's 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.

## **128 Determination of value by district valuer.**

- (1) Any question arising under this Part as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.
- (2) A tenant may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.
- (3) If such proceedings are begun after a previous determination under this section—
- (a) the tenant may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the dwelling-house at the relevant time to be re-determined, and
- (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;
- and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the tenant a notice stating that the requirement is being or has been made.
- (4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the tenant within four weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).
- (5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the tenant a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).
- (6) A notice under subsection (5) shall inform the tenant of the right to a mortgage and of the effect of sections 134 and 135 (procedure for claiming to exercise that right) and shall be accompanied by a form for use by the tenant in claiming to exercise that right.

## **129 Discount.**

- (1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount equal to the following percentage of the price before discount—
- (a) if the period which, in accordance with Schedule 4, is to be taken into account for the purposes of discount is less than three years, 32 per cent.;
- (b) if that period is three years or more, 32 per cent. plus one per cent. for each complete year by which that period exceeds two years.

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- (2) The discount shall not exceed 60 per cent.
- (3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

**130 Reduction of discount where previous discount given.**

- (1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.
- (2) A “previous discount” means a discount given before the relevant time—
  - (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
  - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
  - (a) to the person or one of the persons exercising the right to buy, or
  - (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
  - (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);

and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.
- (4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—
  - (a) by the receipt of a payment determined by reference to the discount, or
  - (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
  - (c) in any other way,

then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.
- (5) 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.
- (6) In this section “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

**131 Limits on amount of discount.**

- (1) Except where the Secretary of State so determines, the discount shall not reduce the price below the amount which, in accordance with a determination made by him, is

to be taken as representing so much of the costs incurred in respect of the dwelling-house as, in accordance with the determination—

- (a) is to be treated as incurred after 31st March 1974 (or such later date as may be specified in an order made by the Secretary of State), and
  - (b) is to be treated as relevant for the purposes of this sub-section;
- and if the price before discount is below that amount, there shall be no discount.
- (2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.
  - (3) An order or determination under this section may make different provision for different cases or descriptions of case, including different provision for different areas.
  - (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *The right to a mortgage*

#### **132 The right to a mortgage.**

- (1) A secure tenant who has the right to buy has the right, subject to the following provisions of this Part—
  - (a) to leave the whole or part of the aggregate amount mentioned in section 133(1) outstanding on the security of a first mortgage of the dwelling-house, or
  - (b) if the landlord is a housing association, to have the whole or part of that amount advanced to him on that security by the Housing Corporation;and in this Act that right is referred to as “the right to a mortgage.”
- (2) Where the right to buy belongs jointly to two or more persons, the right to a mortgage also belongs to them jointly.

#### **133 The amount to be secured.**

- (1) The amount which a secure tenant exercising the right to a mortgage is entitled to leave outstanding, or have advanced to him, on the security of the dwelling-house is, subject to the limit imposed by this section, the aggregate of—
  - (a) the purchase price,
  - (b) so much of the costs incurred by the landlord or the Housing Corporation as is chargeable to the tenant under section 178(2) (costs), and
  - (c) any costs incurred by the tenant and defrayed on his behalf by the landlord or the Housing Corporation.
- (2) The limit is that the amount which the tenant is entitled to leave outstanding or have advanced to him on the security of the dwelling-house may not exceed—
  - (a) where the right to a mortgage belongs to one person, the amount to be taken into account, in accordance with regulations under this section, as his available annual income multiplied by such factor as, under the regulations, is appropriate to it;
  - (b) where the right to a mortgage belongs to more than one person, the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.

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- (3) The Secretary of State may by regulations make provision for calculating the amount which is to be taken into account under this section as a person's available annual income and for specifying a factor appropriate to it; and the regulations—
  - (a) may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income, and
  - (b) may specify different amounts and different factors for different circumstances.
- (4) Where the amount which a secure tenant is entitled to leave outstanding on the security of the dwelling-house is reduced by the limit imposed by this section, the landlord may, if it thinks fit and the tenant agrees, treat him as entitled to leave outstanding on that security such amount exceeding the limit, but not exceeding the aggregate mentioned in subsection (1), as the landlord may determine.
- (5) References in this Part to a secure tenant being entitled, or treated as entitled, to a "full mortgage" are to his being entitled, or treated as entitled, to leave outstanding or have advanced to him on the security of the dwelling-house an amount equal to the aggregate mentioned in subsection (1).
- (6) Regulations 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.

#### **134 Tenant's notice claiming to exercise right to a mortgage.**

- (1) A secure tenant cannot exercise his right to a mortgage unless he claims to exercise it by notice in writing served on the landlord, or if the landlord is a housing association, on the Housing Corporation.
- (2) The notice must be served within the period of three months beginning with the service on the tenant 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),or within that period as extended under the following provisions.
- (3) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the Housing Corporation shall by notice in writing served on the tenant extend (or further extend) the period within which the tenant's notice claiming to exercise his right to a mortgage must be served.
- (4) If in such a case the landlord or Housing Corporation fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.



### **135 Landlord’s notice of amount and terms of mortgage.**

- (1) As soon as practicable after the service on it of a notice under section 134, the landlord or Housing Corporation shall serve on the tenant a notice in writing stating—
  - (a) the amount which, in the opinion of the landlord or Housing Corporation, the tenant is entitled to leave outstanding or have advanced on the security of the dwelling-house,
  - (b) how that amount has been arrived at, and
  - (c) the provisions which, in the opinion of the landlord or Housing Corporation, should be contained in the deed by which the mortgage is to be effected.
- (2) The notice shall be accompanied by a form for use by the tenant in claiming, in accordance with section 142(1), to be entitled to defer completion and shall also inform the tenant of the effect of subsection (4) of that section (right to serve further notice claiming mortgage).
- (3) Where, in the opinion of the landlord or Housing Corporation, the tenant is not entitled to a full mortgage, the notice shall also inform the tenant of the effect of the provisions of this Part relating to the right to be granted a shared ownership lease and shall be accompanied by a form for use by the tenant in claiming to exercise that right in accordance with section 144(1).
- (4) The Housing Corporation shall send to the landlord a copy of any notice served by it on the tenant under this section.

*Change of tenant or landlord after service of notice claiming right to buy*

### **136 Change of secure tenant after notice claiming right to buy.**

- (1) Where, after a secure tenant (“the former tenant”) has given a notice claiming the right to buy, another person (“the new tenant”)—
  - (a) becomes the secure tenant under the same secure tenancy, otherwise than on an assignment made by virtue of section 92 (assignments by way of exchange), or
  - (b) becomes the secure tenant under a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of the secure tenancy,the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.
- (2) If a notice under section 125 (landlord’s notice of purchase price and other matters has been served on the former tenant, the landlord shall serve on the new tenant a further form for his use in claiming to exercise the right to a mortgage.
- (3) The new tenant may then serve a notice under section 134 (tenant’s notice claiming to exercise right to a mortgage) within the period of three months beginning with the service on him of that form or within that period as extended under the following provisions.
- (4) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the Housing Corporation shall by notice in writing served on the new tenant extend (or further extend) the period within which his notice claiming to exercise the right to a mortgage may be served.

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- (5) If in such a case the landlord or Housing Corporation fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.
- (6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.
- (7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the secure tenant.

**137 Change of landlord after notice claiming right to buy or right to a mortgage.**

Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to buy or the right to a mortgage, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

*Completion of purchase in pursuance of right to buy*

**138 Duty of landlord to convey freehold or grant lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall make to the tenant—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,
 in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

**139 Terms and effect of conveyance or grant and mortgage.**

- (1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to buy;

and if there is then a subtenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

- (3) The deed by which a mortgage is effected in pursuance of the right to a mortgage shall, unless otherwise agreed between the parties, conform with the provisions of Schedule 7.

#### **140 Landlord's first notice to complete.**

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
- (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,
- and informing the tenant of the effect of this section and of section 141(1), (2) and (4) landlord's second notice to complete).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served earlier than whichever of the following is applicable—
- (a) if the tenant has not claimed to exercise the right to a mortgage, nine months after the end of the period within which a notice claiming it could have been served by him;
  - (b) if he has claimed the right to a mortgage, but is not entitled to defer completion, nine months after the service of the notice under section 135 (landlord's notice of terms and amount of mortgage);
  - (c) if he is entitled to defer completion, two years after the service of his notice under section 122 claiming to exercise the right to buy or, if later, nine months after the service of the notice under section 135 (landlord's notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
- (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section "relevant matters" means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

#### **141 Landlord's second notice to complete.**

- (1) If the tenant does not comply with a notice under section 140 (landlord's first notice to complete), the landlord may serve on him a further written notice—
- (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.

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- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 138(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

**142 When tenant is entitled to defer completion,.**

- (1) A tenant is entitled to defer completion if—
  - (a) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage,
  - (b) he has, within the period mentioned below, served on the landlord a notice claiming to be entitled to defer completion, and
  - (c) he has, within the same period, deposited the sum of £100 with the landlord.
- (2) The period within which the notice must be served and the sum of £100 deposited is the period of three months beginning with the service on the tenant of the notice under section 135 (notice of terms and amount of mortgage), or that period as extended under subsection (3).
- (3) If there are reasonable grounds for doing so the landlord shall extend (or further extend) that period<sup>X</sup>; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) A tenant who is entitled to defer completion may at any time before the service on him of a notice under section 140 (landlords' first notice to complete), serve a further notice under section 134(1) (notice claiming to exercise right to a mortgage); and if he does, section 135(1) and (4) (notice of terms and amount of mortgage) apply accordingly.
- (5) If in pursuance of a notice under this section the tenant deposits the sum of £100 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.

*The right to a shared ownership lease*

**143 Right to be granted a shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and—
  - (a) his right has been established and his notice claiming to exercise it remains in force,

(b) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage, and

(c) he is entitled to defer completion,

he also has the right to be granted a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.

(2) Where the right to buy belongs to two or more persons jointly, the right to be granted a shared ownership lease also belongs to them jointly.

#### **144 Tenant's notice claiming to exercise right to shared ownership lease.**

(1) A secure tenant claims to exercise the right to be granted a shared ownership lease by written notice to that effect served on the landlord stating the initial share which he proposes to acquire.

(2) The notice may be withdrawn or varied at any time by notice in writing served on the landlord.

(3) On the service of a notice under this section, any notice served by the landlord under section 140 or 141 (landlord's notices to complete purchase in pursuance of right to buy) shall be deemed to have been withdrawn; and no such notice may be served by the landlord whilst a notice under this section remains in force.

(4) If on the service by the tenant of a further notice under section 134 (claim to exercise right to a mortgage) he becomes entitled, or treated as entitled, to a full mortgage, he ceases to be entitled to exercise the right to be granted a shared ownership lease; and any notice of his under this section shall be deemed to have been withdrawn.

(5) Where a notice under this section is withdrawn, or deemed to have been withdrawn, the tenant may complete the transaction in accordance with the provisions of this Part relating to the right to buy.

#### **145 Tenant's initial share.**

(1) The tenant's initial share in the dwelling-house shall be a multiple of the prescribed percentage and shall not be less than the minimum initial share.

(2) The prescribed percentage is 12.5 per cent. or such other percentage as the Secretary of State may by order prescribe.

(3) The minimum initial share is 50 per cent. or such other percentage as the Secretary of State may by order prescribe.

(4) 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) may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient.

(5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**146 Landlord’s notice admitting or denying right.**

Where a notice under section 144 (notice claiming to exercise right to shared ownership lease) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within four weeks a written notice either—

- (a) admitting the tenant’s right, or
- (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to be granted a shared ownership lease.

**147 Landlord’s notice of initial contribution, etc.**

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established (whether by the landlord’s admission or otherwise), the landlord shall, within eight weeks, serve on the tenant a written notice complying with this section.
- (2) The notice shall state—
  - (a) the amount which, in the opinion of the landlord, should be the amount of the consideration for the grant of the lease on the assumption that the tenant’s initial share is that stated in the notice under section 144; and
  - (b) the effective discount on an acquisition of that share for that consideration, determined in each case, in accordance with section 148.
- (3) The notice shall state the provisions which, in the opinion of the landlord, should be included in the lease.
- (4) Where the landlord is not a housing association, the notice shall state any variation in the provisions which, in the opinion of the landlord, should be contained in the deed by which the mortgage is to be effected.
- (5) Where the landlord is a housing association, the landlord shall send a copy of the notice to the Housing Corporation, and the Housing Corporation shall, as soon as practicable after receiving the notice, serve on the tenant a written notice stating any variation in the provisions which, in the opinion of the Housing Corporation, should be contained in the deed by which the mortgage is to be effected.

**148 Tenant’s initial contribution and effective discount.**

- (1) The consideration for the grant of a shared ownership lease (the tenant’s “initial contribution”) shall be determined by the formula—

$$C = \frac{S (V - D)}{100}$$

and the effective discount shall be determined by the formula—

$$E = \frac{S \times D}{100}$$

where—

C = the tenant’s initial contribution,

- E = the effective discount,
- S = the tenant's initial share expressed as a percentage,
- V = the value of the dwelling-house at the relevant time, determined in accordance with section 127, and
- D = the discount which if the tenant were exercising the right to buy would be applicable under sections 129 to 131.

- (2) In determining the value of the dwelling-house for the purposes of this section, the assumptions to be made under section 127 (which vary according to whether it is the freehold or a lease which is to be acquired) are those applicable in relation to the dwelling-house for the purposes of the right to buy.

**149 Change of landlord after notice claiming to exercise right to shared ownership lease.**

Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given notice claiming to exercise the right to be granted a shared ownership lease, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

**150 Duty of landlord to grant shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall grant the tenant a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

**151 Terms and effect of grant and mortgage.**

- (1) A grant of a shared ownership lease in pursuance of this Part shall conform—
- (a) with Schedule 8 (terms of shared ownership lease), and
  - (b) subject to that, with Parts I and III of Schedule 6 (terms of lease granted in pursuance of right to buy);
- and part IV of Schedule 6 (charges) applies to a shared ownership lease as it applies to a lease granted in pursuance of the right to buy.
- (2) The secure tenancy comes to an end on the grant of the shared ownership lease, and if there is then a sub-tenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

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- (3) Where the transaction is duly completed the sum of £100 deposited by the tenant with the landlord in pursuance of section 142 (deferment of completion) shall be treated as having been paid towards the tenant's initial contribution.
- (4) A deed by which a mortgage is effected where the tenant exercises both the right to a mortgage and the right to be granted a shared ownership lease shall, unless otherwise agreed between the parties, conform with—
  - (a) Schedule 7 (terms of mortgage granted in pursuance of right to a mortgage), and
  - (b) without prejudice to that, with Schedule 9 (right to further advances).

### **152 Landlord's first notice to complete.**

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,and informing the tenant of the effect of this section and of section 153(1), (2) and (4) (landlord's second notice to complete and its effect).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served before the end of the period of two years after the service of the tenant's notice under section 122 (notice claiming to exercise right to buy) or, if later, nine months after the service of the notice under section 135 (landlord's notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
  - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section "relevant matters" means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

### **153 Landlord's second notice to complete.**

- (1) If the tenant does not comply with a notice under section 152 (landlord's first notice to complete), the landlord may serve on him a further written notice—
  - (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.



- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to be granted a shared ownership lease and the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 150(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

### *Registration of title*

#### **154 Registration of title.**

- (1) Where the landlord's title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to—
  - (a) the conveyance of the freehold or the grant of a lease in pursuance of this Part, or
  - (b) the conveyance of the freehold in pursuance of such a right as is mentioned in paragraph 2(1) or 8(1) of Schedule 8 (terms of shared ownership lease; right to freehold on acquiring 100 per cent. interest),whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of not less than 40 years.
- (2) Where the landlord's title to the dwelling-house is not registered, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.
- (3) Where the landlord's interest in the dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—
  - (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord's lease.
- (4) A certificate under subsection (2) shall be—
  - (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.
- (5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.
- (6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this part notwithstanding that it is a lease for a term of which

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not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.

*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,  
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

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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 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

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- (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.

*Powers of Secretary of State*

**164 Secretary of State's general power to intervene.**

- (1) The Secretary of State may use his powers under this section where it appears to him that tenants generally, a tenant or tenants of a particular landlord, or tenants of a description of landlords, have or may have difficulty in exercising effectively and expeditiously the right to buy or the right to be granted a shared ownership lease.
- (2) The powers may be exercised only after he has given the landlord or landlords notice in writing of his intention to do so and while the notice is in force.
- (3) Such a notice shall be deemed to be given 72 hours after it has been sent.
- (4) Where a notice under this section has been given to a landlord or landlords, no step taken by the landlord or any of the landlords while the notice is in force or before it was given has any effect in relation to the exercise by a secure tenant of the right to buy, the right to a mortgage or the right to be granted a shared ownership lease, except in so far as the notice otherwise provides.
- (5) While a notice under this section is in force the Secretary of State may do all such things as appear to him necessary or expedient to enable secure tenants of the landlord or landlords to which the notice was given to exercise the right to buy, the right to a mortgage and the right to be granted a shared ownership lease; and he is not bound to take the steps which the landlord would have been bound to take under this Part.
- (6) Where in consequence of the exercise by a secure tenant of the right to a mortgage a landlord becomes a mortgagee of a dwelling-house whilst a notice under this section is in force in relation to the landlord and to the dwelling-house, then, while the notice remains in force—
  - (a) the Secretary of State may, on behalf of the mortgagee, receive any sums due to it and exercise all powers and do all things which the mortgagee could have exercised or done, and
  - (b) the mortgagee shall not receive any such sum, exercise any such power or do any such thing, except with the consent of the Secretary of State, which may be given subject to such conditions as the Secretary of State thinks fit.

## **165 Vesting orders for purposes of s. 164.**

- (1) For the purpose of conveying a freehold or granting a lease in the exercise of his powers under section 164 the Secretary of State may execute a document, to be known as a vesting order, containing such provisions as he may determine; and for the purposes of stamp duty the vesting order shall be treated as a document executed by the landlord.
- (2) A vesting order has the like effect, except so far as it otherwise provides, as a conveyance or grant duly executed in pursuance of this Part, and, in particular, binds both the landlord and its successors in title and the tenant and his successors in title (including any person deriving title under him or them) to the same extent as if the covenants contained in it and expressed to be made on their behalf had been entered into by them.
- (3) If the landlord's title to the dwelling-house in respect of which a vesting order is made is not registered, the vesting order shall contain a certificate stating that the freehold conveyed or grant made by it is subject only to such incumbrances, rights and interests as are stated elsewhere in the vesting order or summarised in the certificate.
- (4) The Chief Land Registrar shall, on a vesting order being presented to him, register the tenant as proprietor of the title concerned; and if the title has not previously been registered—
  - (a) he shall so register him with an absolute title, or as the case may require a good leasehold title, and
  - (b) he shall, for the purpose of the registration, accept any such certificate as is mentioned in subsection (3) as sufficient evidence of the facts stated in it.
- (5) Where the landlord's title to a dwelling-house with respect to which the right to buy, or the right to be granted a shared ownership lease, is exercised is registered, the Chief Land Registrar shall—
  - (a) if so requested by the Secretary of State, supply him (on payment of the appropriate fee) with an office copy of any document required by the Secretary of State for the purpose of executing a vesting order with respect to the dwelling-house, and
  - (b) notwithstanding section 112 of the Land Registration Act 1925 (authority of proprietor required for inspection of register, etc.), allow any person authorised by the Secretary of State to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house.
- (6) If a person suffers loss in consequence of a registration under this section in circumstances in which he would have been entitled to be indemnified under section 83 of the Land Registration Act 1925 by the Chief Land Registrar had the registration of the tenant as proprietor of the title been effected otherwise than under this section, he is instead entitled to be indemnified by the Secretary of State and section 166(4) of this Act (recovery of Secretary of State's costs from landlord) applies accordingly.

## **166 Other provisions supplementary to s. 164.**

- (1) A notice under section 164 may be withdrawn by a further notice in writing, either completely or in relation to a particular landlord or a particular case or description of case.

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- (2) The further notice may give such directions as the Secretary of State may think fit for the completion of a transaction begun before the further notice was given; and such directions are binding on the landlord, and may require the taking of steps different from those which the landlord would have been required to take if the Secretary of State's powers under section 164 had not been used.
- (3) Where in consequence of the exercise of his powers under section 164 the Secretary of State receives sums due to a landlord, he may retain them while a notice under that section is in force in relation to the landlord and is not bound to account to the landlord for interest accruing on them.
- (4) Where the Secretary of State exercises his powers under section 164 with respect to secure tenants of a landlord, he may—
  - (a) calculate, in such manner and on such assumptions as he may determine, the costs incurred by him in doing so, and
  - (b) certify a sum as representing those costs;
 and a sum so certified is a debt from the landlord to the Secretary of State payable on a date specified in the certificate, together with interest from that date at a rate so specified.
- (5) sums payable under subsection (4) may, without prejudice to any other method of recovery, be recovered from the landlord by the withholding of sums due from the Secretary of State, including sums payable to the landlord and received by the Secretary of State in consequence of his exercise of his powers under section 164.
- (6) In this section the references to a landlord include references to a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage, and the references to the powers of the Secretary of State with respect to the secure tenants of a landlord include references to the powers of the Secretary of State to act on behalf of such a mortgagee.

**167 Power to give directions as to covenants and conditions.**

- (1) Where it appears to the Secretary of State that, if covenants or conditions of any kind were included in conveyances or grants of dwelling-houses of any description executed in pursuance of this Part—
  - (a) the conveyances would not conform with Parts I and II of Schedule 6, or
  - (b) the grants would not conform with Parts I and III of that Schedule.
 he may direct landlords generally, landlords of a particular description or particular landlords not to include covenants or conditions of that kind in such conveyances or grants executed on or after a date specified in the direction.
- (2) A direction under this section may be varied or withdrawn by a subsequent direction.

**168 Effect of direction under s. 167 on existing covenants and conditions.**

- (1) If a direction under section 167 so provides, the provisions of this section shall apply in relation to a covenant or condition which—
  - (a) was included in a conveyance or grant executed before the date specified in the direction, and
  - (b) could not have been so included if the conveyance or grant had been executed on or after that date.



- (2) The covenant or condition shall be discharged or (if the direction so provides) modified, as from the specified date, to such extent or in such manner as may be provided by the direction; and the discharge or modification is binding on all persons entitled or capable of becoming entitled to the benefit of the covenant or condition.
- (3) The landlord by whom the conveyance or grant was executed shall, within such period as may be specified in the direction—
  - (a) serve on the person registered as the proprietor of the dwelling-house, and on any person registered as the proprietor of a charge affecting the dwelling-house, a written notice informing him of the discharge or modification, and
  - (b) on behalf of the person registered as the proprietor of the dwelling-house, apply to the Chief Land Registrar (and pay the appropriate fee) for notice of the discharge or modification to be entered in the register.
- (4) For the purposes of enabling the landlord to comply with the requirements of subsection (3) the Chief Land Registrar shall, notwithstanding section 112 of the Land Registration Act 1925 (authority of proprietor required for inspection of register, etc.) allow any person authorised by the landlord to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house.
- (5) Notwithstanding anything in section 64 of the Land Registration Act 1925 (certificates to be produced and noted on dealings), notice of the discharge or modification may be entered in the register without the production of any land certificate outstanding in respect of the dwelling-house, but without prejudice to the power of the Chief Land Registrar to compel production of the certificate for the purposes mentioned in that section.

## **169 Power to obtain information, etc.**

- (1) Where it appears to the Secretary of State necessary or expedient for the purpose of determining whether his powers under section 164 or 166 (general power to intervene) or section 167 or 168 (power to give directions as to covenants and conditions) are exercisable, or for or in connection with the exercise of those powers, he may by notice in writing to a landlord require it—
  - (a) at such time and at such place as may be specified in the notice, to produce any document, or
  - (b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.
- (2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.
- (3) In this section references to a landlord include—
  - (a) a landlord by whom a conveyance or grant was executed in pursuance of this Part, and
  - (b) a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage.

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## **170 Power to give assistance in connection with legal proceedings.**

- (1) This section applies to—
  - (a) proceedings under this Part or to determine a question arising under or in connection with this Part, and
  - (b) proceedings to determine a question arising under or in connection with a conveyance or grant executed in pursuance of this Part,  
other than proceedings to determine a question as to the value of a dwelling-house (or part of a dwelling-house).
- (2) A party or prospective party to proceedings or prospective proceedings to which this section applies, who—
  - (a) has claimed to exercise or has exercised the right to buy or the right to be granted a shared ownership lease, or
  - (b) is a successor in title of a person who has exercised either of those rights,  
may apply to the Secretary of State for assistance under this section.
- (3) The Secretary of State may grant the application if he thinks fit to do so on the ground—
  - (a) that the case raises a question of principle, or
  - (b) that it is unreasonable having regard to the complexity of the case, or to any other matter, to expect the applicant to deal with it without such assistance,  
or by reason of any other special consideration.
- (4) Assistance by the Secretary of State under this section may include—
  - (a) giving advice.
  - (b) procuring or attempting to procure the settlement of the matter in dispute,
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel,
  - (c) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings, and
  - (e) any other form of assistance which the Secretary of State may consider appropriate;but paragraph (d) does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (5) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Secretary of State—
  - (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;but subject to any charge under the Legal Aid Act 1974 and to any provision of that Act for payment of any sum into the legal aid fund.
- (6) References in this section to a solicitor include the Treasury Solicitor.

*Power to extend right to buy, etc.*

**171 Power to extend right to buy, etc.**

- (1) The Secretary of State may by order provide that, where there are in a dwelling-house let on a secure tenancy one or more interest to which this section applies, this Part and Part IV (secure tenancies) have effect with such modifications as are specified in the order.
- (2) This section applies to an interest held by—
  - a local authority,
  - a new town corporation,
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - the Housing Corporation, or
  - a registered housing association,which is immediately superior to the interest of the landlord or to another interest to which this section applies.
- (3) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case;
  - (b) may contain such consequential, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part*

**172 Exclusion of leases where landlord is housing association and freeholder is a charity.**

- (1) Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

**173 Exclusion of shared ownership leases granted under this Part.**

- (1) Where a tenancy of a dwelling-house which is a house is created by the grant of a lease in pursuance of the right to be granted a shared ownership lease, then, so long

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as the rent payable under the lease exceeds £10 per annum, neither the tenant nor the tenant under a sub-tenancy directly or indirectly derived out of the tenancy shall be entitled to acquire the free-hold or an extended lease of the dwelling-house under Part I of the Leasehold Reform Act 1967.

- (2) Subsection (1) applies notwithstanding the provisions of section 174 (leases granted under this Part to be treated as long leases at a low rent).

**174 Leases granted under this Part to be treated as long leases at a low rent.**

For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

- (a) a tenancy created by the grant of a lease in pursuance of this part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less, and
- (b) a tenancy created by the grant of such a lease in pursuance of the right to be granted a shared ownership lease shall be treated as being a tenancy at a low rent notwithstanding that rent is payable under the tenancy at a yearly rate equal to or more than two-thirds of the rateable value of the dwelling-house on the first day of the term.

**175 Determination of price payable.**

- (1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that the rateable value of the dwelling-house does not exceed £1,000 in Greater London or £500 elsewhere.
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).
- (5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

*Supplementary provisions*

**176 Notices.**

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Part and the particulars to be contained in the notice.
- (2) Where the form of, and the particulars to be contained in, a notice under this Part are so prescribed, a tenant who proposes to claim, or has claimed, to exercise the right to

buy may request the landlord to supply him with a form for use in giving such notice; and the landlord shall do so within seven days of the request.

- (3) A notice under this Part may be served by sending it by post.
- (4) Where the landlord is a housing association, a notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the tenant usually deals.
- (5) Regulations 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.

### **177 Errors and omissions in notices.**

- (1) A notice served by a tenant under this Part is not invalidated by an error in, or omission from, the particulars which are required by regulations under section 176 to be contained in the notice.
- (2) Where as a result of such an error or omission—
  - (a) the landlord has mistakenly admitted or denied the right to buy or the right to be granted a shared ownership lease in a notice under section 124 or 146, or
  - (b) the landlord or the Housing Corporation has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions mentioned in sub-section (3) and has stated that opinion in the notice,the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the propose of securing that all parties are, as nearly as may be, in the same position as they would have been if the mistake had not been made.
- (3) The provisions referred to in subsection (2)(b) are—
  - section 125 (notice of purchase price, etc.),
  - section 135 (notice of mortgage entitlement),
  - section 147 (notice of initial contribution),
  - paragraph 1(3) of Schedule 8 (notice of additional contribution), and
  - paragraph 5 of Schedule 9 (notice of entitlement to further advance).
- (4) Subsection (2) does not apply where the tenant has exercised the right to which the notice relates before the parties become aware of the mistake.

### **178 Costs.**

- (1) An agreement between—
  - (a) the landlord and a tenant claiming to exercise the right to buy, the right to be granted a shared ownership lease, or any such right as is mentioned in paragraphs 1(1), 2 or 8 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares or call for conveyance of freehold), or

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- (b) the landlord or, as the case may be, the Housing Corporation and a tenant claiming to exercise the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances),  
 is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord or Housing Corporation in connection with the tenant's exercise of that right.
- (2) Where a tenant exercises the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances), the landlord or, as the case may be, the Housing Corporation may charge to him the costs incurred by it in connection with his exercise of that right, but only—
- (a) on the execution of the deed by which the mortgage is effected, and  
 (b) to the extent that the costs do not exceed such amount as the Secretary of State may by order specify.
- (3) 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.

**179 Provisions restricting right to buy, etc. of no effect.**

- (1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—
- (a) the grant of a lease in pursuance of the right to buy or the right to be granted a shared ownership lease, or  
 (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted
- or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.
- (2) Where a dwelling-house let on a secure tenancy is land held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds), or  
 (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- then, for the purposes of this Part, the dwelling-house shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with section 164 or, as the case may be, section 10.

**180 Statutory declarations.**

A landlord, the Housing Corporation or the Secretary of State may, if the landlord, Corporation or Secretary of State thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

**181 Jurisdiction of county court.**

- (1) A county court has jurisdiction—
- (a) to entertain any proceedings brought under this Part, and

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- (b) to determine any question arising under this Part or under a shared ownership lease granted in pursuance of this Part;  
but subject to sections 128 and 158 and paragraph 11 of Schedule 8 (which provide for matters of valuation to be determined by the district valuer).
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—
- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
- (b) for the conduct of proceedings in private.
- (5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **182 Power to repeal or amend local Acts.**

- (1) The Secretary of State may by order repeal or amend a provision of a local Act passed before 8th August 1980 where it appears to him that the provision is inconsistent with a provision of this Part relating to the right to buy or the right to a mortgage.
- (2) Before making an order under this section the Secretary of State shall consult any local housing authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.
- (4) 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.

## **183 Meaning of “house”, “flat” and “dwelling-house”.**

- (1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.
- (2) A dwelling-house is a house if, and only if, it (or so much of its as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
- (b) where a building is divided vertically, the units into which it is divided may be houses;
- (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.

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- (3) A dwelling-house which is not a house is a flat.

**184 Land let with or used for purposes of dwelling-house.**

- (1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.
- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
- (a) the tenant, by a written notice served on the landlord at any time before he exercises the right to buy or the right to be granted a shared ownership lease, requires the land to be included in the dwelling-house, and
  - (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to buy or the right to be granted a shared ownership lease.
- (4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

**185 Meaning of “secure tenancy” and “secure tenant”.**

- (1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.
- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
  - (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

**186 Members of a person’s family.**

- (1) A person is a member of another’s family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,



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- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his child, and
- (d) an illegitimate child shall be treated as as the legitimate child of his mother and reputed father.

### 187 Minor definitions.

In this Part—

“improvement” means any alteration in, or addition to, a dwelling-house and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to a dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration;

“long tenancy” means—

- (a) a long tenancy within the meaning of part IV,
- (b) a tenancy falling within paragraph 1 of Schedule 1 to the Tenants' Rights, Etc. (Scotland) Act 1980, or
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly;

“total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the dwelling-house acquired by him.

### 188 Index of defined expressions: Part V.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

additional share and additional contribution (in relation to a tenant under a shared ownership lease)	paragraphs 1 and 3 of Schedule 8
bank	section 622
building society	section 622
cemetery section 622	
charity	section 662
compulsory disposal	section 161
co-operative housing association	section 5(2)
dwelling-house	sections 183 and 184
effective discount (in relation to shares under a shared ownership lease)	section 148 and paragraph 3 of Schedule 8

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exempted disposal	section 160
family (member of)	section 186
flat	section 183
friendly society	section 622
full mortgage	section 133(5)
house	section 183
housing association	section 5(1)
housing trust	section 6
improvement	section 187
incumbrances	paragraph 7 of Schedule 6
initial share and initial contribution (in relation to a shared ownership lease.)	sections 147 and 148
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed percentage (in relation to shares in a shared ownership lease)	section 145
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
registered (in relation a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 (and see section 452(3))
relevant time	section 122(2)
right to be granted a shared ownership lease	section 143
right to buy	section 118(1)
right to further advances	paragraph 1 of Schedule 9
right to a mortgage	section 132
secure tenancy and secure tenant	sections 79 and 185
tenant's incumbrance	paragraph 7 of Schedule 6
total share (of a tenant under a shared ownership lease)	section 187

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trustee savings bank

section 622

urban development corporation

section 4(d)