

Status: Point in time view as at 26/01/2019.

Changes to legislation: Housing Act 1985, SCHEDULE 3A is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3A

CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD

Textual Amendments

F1 Sch. 3A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 6(2)(3), [Sch. 1](#)

Disposals to which this Schedule applies

- 1 (1) This Schedule applies to the disposal by a local authority of an interest in land as a result of which a secure tenant [^{F2}or an introductory tenant] of the authority will become the tenant of a private sector landlord.
- (2) For the purposes of this Schedule the grant of an option which if exercised would result in a secure tenant [^{F2}or an introductory tenant] of a local authority becoming the tenant of a private sector landlord shall be treated as a disposal of the interest which is the subject of the option.
- (3) Where a disposal of land by a local authority is in part a disposal to which this Schedule applies, the provisions of this Schedule apply to that part as to a separate disposal.
- (4) In this paragraph “ private sector landlord ” means a person other than an authority or body within section 80 (the landlord condition for secure tenancies).

Textual Amendments

F2 Words in Sch. 3A para. 1(1)(2) inserted (12.2.1997) by [S.I. 1997/74](#), art. 2, [Sch. para. 3\(1\)\(i\)](#)

Application for Secretary of State’s consent

- 2 (1) The Secretary of State shall not entertain an application for his consent to a disposal to which this Schedule applies unless the authority certify either—
 - (a) that the requirements of paragraph 3 as to consultation have been complied with, or
 - (b) that the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the dwelling-house in question before the disposal;and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with that paragraph.

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- (2) Where the certificate is in the latter form, the Secretary of State shall not determine the application until the authority certify as regards the tenants nor originally consulted—
- (a) that they have vacated the dwelling-house in question, or
 - (b) that the requirements of paragraph 3 as to consultation have been complied with;
- and a certificate under sub-paragraph (b) shall be accompanied by a copy of the notices given by the authority in accordance with paragraph 3.
- (3) References in this Schedule to the Secretary of State's consent to a disposal are to the consent required by section 32 or 43 (general requirement of consent for disposal of houses or land held for housing purposes).

Requirements as to consultation

- 3 (1) The requirements as to consultation referred to above are as follows.
- (2) The authority shall serve notice in writing on the tenant informing him of—
- (a) such details of their proposal as the authority consider appropriate, but including the identity of the person to whom the disposal is to be made,
 - (b) the likely consequences of the disposal for the tenant, and
 - (c) the effect of the provisions of this Schedule and ^{F3}, in the case of a secure tenant, ^{F4}of a dwelling-house in England] of sections 171A to 171H (preservation of right to buy on disposal to private sector landlord),
- and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (3) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
- (a) of any significant changes in their proposal, and
 - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,
- and informing him of the effect of paragraph 5 (consent to be withheld if majority of tenants are opposed).
- [When a notice has been served under sub-paragraph (3) the authority shall arrange
- ^{F5}(4) a ballot of the tenants in accordance with sub-paragraph (5) to establish whether or not the tenants wish the disposal to proceed.
- (5) The authority shall—
- (a) make arrangements for such person as they consider appropriate to conduct the ballot in such manner as that person considers appropriate; or
 - (b) conduct the ballot themselves.
- (6) After the ballot has been held the authority shall serve a notice on each tenant (whether or not he voted in the ballot) informing him—
- (a) of the ballot result; and
 - (b) if the authority intend to proceed with the disposal, that he may within 28 days after the service of the notice make representations to the Secretary of State or (as the case may be) the Welsh Ministers.]

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Textual Amendments

- F3** Words in Sch. 3A para. 3(2)(c) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 3(1)(ii)**
- F4** Words in Sch. 3A para. 3(2)(c) inserted (26.1.2019) by The Abolition of the Right to Buy and Associated Rights (Wales) Act 2018 (Consequential Amendments and Savings Provisions) Regulations 2019 (S.I. 2019/110), regs. 1, **3(o)** (with reg. 5)
- F5** Sch. 3A para. 3(4)-(6) inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 294(2), 325(2)** (with s. 294(5)(6))

Power to require further consultation

- 4 The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.

Consent to be withheld if majority of tenants are opposed

- 5 (1) The Secretary of State shall not give his consent if [^{F6}the result of a ballot arranged under paragraph 3(4) shows] that a majority of the tenants of the dwelling-houses to which the application relates [^{F7}who voted in the ballot] do not wish the disposal to proceed; but this does not affect his general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.
- (2) In making his decision the Secretary of State may have regard to any information available to him; and the local authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.

Textual Amendments

- F6** Words in Sch. 3A para. 5(1) substituted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 294(3)(a), 325(2)** (with s. 294(5)(6))
- F7** Words in Sch. 3A para. 5(1) inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 294(3)(b), 325(2)** (with s. 294(5)(6))

[^{F8}Guidance

Textual Amendments

- F8** Sch. 3A para. 5A and preceding cross-heading inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), **ss. 294(4), 325(2)** (with s. 294(5)(6))

- 5A (1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.
- (2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.
- (3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.

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- (4) The appropriate person may revoke guidance given under this paragraph.
- (5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.
- (6) In this paragraph “ the appropriate person ” means—
 - (a) in relation to England, the Secretary of State, and
 - (b) in relation to Wales, the Welsh Ministers.]

Protection of purchasers

- 6 The Secretary of State’s consent to a disposal is not invalidated by a failure on his part or that of the local authority to comply with the requirements of this Schedule.]

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