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Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 5

HOUSING: MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

CONSEQUENTIAL AMENDMENTS

14 F1

Textual Amendments

F1 Sch. 5 paras. 14, 17 repealed (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

Rent Act 1977

15 In section 16 of the ^{M1}Rent Act 1977 (tenancy not protected if interest of landlord belongs to housing co-operative) for the words from “within the meaning of section 27” to the end substitute “within the meaning of section 27B of the Housing Act 1985 (agreements with housing co-operatives under certain superseded provisions) and the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section”.

Marginal Citations

M1 1977 c. 42.

PROSPECTIVE

16 (1) Schedule 12 to the Rent Act 1977 (procedure on application for certificate of fair rent) is amended as follows.

(2) In paragraph (1)(c)—

- (a) after “section 69(1)(a)” insert “or (1A)(b)”;
- (b) after “improvement” insert “or repair”;
- (c) after “regulated” insert “or secure”.

(3) In paragraph 3, after “If,” insert—

“in the case of—

- (a) an application under section 69(1) of this Act where the dwelling-house is not subject to a regulated tenancy, or

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(b) an application under section 69(1A) of this Act where the dwelling-house is not subject to a secure tenancy,”;

and omit “unless the dwelling-house is subject to a regulated tenancy”.

(4) In paragraph 4, for the words from “an application” to “regulated tenancy” substitute “—

(a) an application under section 69(1) of this Act where the dwelling-house is not subject to a regulated tenancy and which does not fall within paragraph 3 above, or

(b) an application under section 69(1A) of this Act and which does not fall within paragraph 3 above and where the dwelling-house is not subject to a secure tenancy,”.

(5) In paragraph 5(1), for “Where the dwelling-house is subject to a regulated tenancy” substitute

“In the case of—

(a) an application under section 69(1) of this Act where the dwelling-house is subject to a regulated tenancy, or

(b) an application under section 69(1A) of this Act where the dwelling-house is subject to a secure tenancy,”.

(6) In paragraphs 8(2) and 11, after “regulated” insert “or secure”.

(7) After paragraph 11 add—

“12 In this Schedule “secure tenancy” has the same meaning as in Part IV of the Housing Act 1985, but does not include such a tenancy where the landlord is the Housing Corporation, a housing association or a housing trust which is a charity.

In this paragraph “housing association”, “housing trust” and “charity” have the same meaning as in Part IV of the Housing Act 1985.”

17 F2

Textual Amendments

F2 Sch. 5 paras. 14, 17 repealed (S.) by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

Finance Act 1981

18 In section 107 of the ^{M2}Finance Act 1981 (stamp duty payable on disposal of dwelling-house at a discount by certain authorities), after subsection (3A) insert—

“(3B) This section also applies to a conveyance or transfer on sale (including the grant of a lease) by a person against whom the right by buy under Part V of the Housing Act 1985 is exercisable by virtue of section 171A of that Act (preservation of right to buy on disposal to private sector landlord) to a person who is the qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house is the qualifying dwelling-house.”

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Commencement Information

I1 Sch. 5 para. 18 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

Marginal Citations

M2 1981 c. 35.

Local Government Act 1985

- 19 In paragraph 22 of Schedule 13 to the ^{M3}Local Government Act 1985 (provisions of Housing Act 1985 applying to residuary bodies) after “444,” insert “450A to 450C,”.

Commencement Information

I2 Sch. 5 para. 19 wholly in force at 17.8.1992 see s. 57(2) and S.I. 1992/1753, art. 2(2).

Marginal Citations

M3 1985 c. 51.

Housing Act 1985

- 20 In section 4(e) of the ^{M4}Housing Act 1985 (general definition of “local authority” for the Act) for “444(4), 452(2), 453(2)” substitute “458”.

Commencement Information

I3 Sch. 5 para. 20 wholly in force at 17.8.1992 see s. 57(2) and S.I. 1992/1753, art. 2(2).

Marginal Citations

M4 1985 c. 68.

- 21 In section 20 of the Housing Act 1985 (houses of local authority to which management provisions apply), for “down to section 26” substitute “down to section 27B”.
- 22 In section 21 of the Housing Act 1985 (management powers to be exercised by local housing authority), in subsection (2) (general proposition subject to section 27), for “(agreements for exercise of housing management functions by co operative)” substitute “(management agreements)”.
- 23 In section 30 of the Housing Act 1985 (application of housing management provisions to new town corporations and the Development Board for Rural Wales), omit subsection (2) (which relates to section 27: management agreements).
- 24 Omit section 46 of the Housing Act 1985 (definition of “service charge” for the purposes of certain provisions of Part II).

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- 25 In section 57 of the Housing Act 1985 (the index to Part II), in the entries relating to the expressions “payee and payer”, “relevant costs” and “service charge” for “section 46” substitute “section 621A”.
- 26 In section 80 of the Housing Act 1985 (the landlord condition for secure tenancies), for subsection (4) (housing co-operatives to which the section applies) substitute—
- “(4) This section applies to a housing co-operative within the meaning of section 27B (agreements under certain superseded provisions) where the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section.”.
- 27 In section 117 of the Housing Act 1985 (the index to Part IV) at the appropriate places insert—
- | | |
|-------------------------------------|----------------------------------|
| “consent (in Schedule 3A) | paragraph 2(3) of that Schedule” |
| “landlord (in Part V of Schedule 2) | paragraph 5 of that Part” |
| “management agreement and manager | sections 27(2) and 27B(4)”. |

Commencement Information

- I4** [Sch. 5 para. 27](#) partly in force; [Sch. 5 para. 27](#) not in force at Royal Assent see [s. 57](#); [Sch. 5 para. 27](#) partly in force at 17.8.1992 see [S.I. 1992/1753](#), art. 2(2).

- 28 In section 127(1) of the Housing Act 1985, omit the word “and” at the end of paragraph (a).
- 29 In section 130 of the ^{M5}Housing Act 1985 (reduction of discount where previous discount given), in subsection (2) (meaning of “previous discount”) in paragraph (a) after “7” insert “or 7A” and after that paragraph insert—
- “(aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or”.

Modifications etc. (not altering text)

- C1** [Sch. 5 para. 29](#) restricted (11.7.1992) by [S.I. 1992/1753](#), art. 2(2), [Sch. para. 2](#).

Commencement Information

- I5** [Sch. 5 para. 29](#) wholly in force at 17.8.1992 see [s. 57](#) and [S.I. 1992/1753](#), art. 2(2).

Marginal Citations

- M5** [1985 c. 68](#).

- 30 (1) Section 187 of the Housing Act 1985 (minor definitions for purposes of Part V (the right to buy)) is amended as follows.
- (2) In the definition of “improvement”—

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- (a) after “means” insert “, in relation to a dwelling-house,”,
- (b) for “a dwelling-house”, in both places, substitute “the dwelling-house”, and
- (c) at the end (full-out after paragraph (c)) insert “and shall be similarly construed in relation to any other building or land;”.

(3) At the appropriate place insert—

““improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);”.

31 In section 188 of the Housing Act 1985 (the index to Part V) at the appropriate places insert—

“disposal and instrument effecting disposal (in Schedule 9A)	paragraph 10 of that Schedule”
“former landlord and former secure tenant (in relation to a qualifying disposal)	section 171A(2)(c)”
“improvement contribution	section 187”
“preserved right to buy	section 171A(2)(a)”
“qualifying disposal (in relation to the preserved right to buy)	section 171A(2)(b)”
“qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)	section 171B(1)”
“reference period (for purposes of s.125A or 125B)	section 125C”
“service charge	section 621A”.

Commencement Information

I6 Sch. 5 para. 31 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

32 In Part XIII of the ^{M6}Housing Act 1985 (general financial provisions), after section 427 insert—

“427A Entitlement to subsidy in case of land subject to management agreement.

The fact that a local housing authority or other body has entered into a management agreement, and any letting of land in connection with such an agreement—

- (a) shall be disregarded in determining that authority or body’s reckonable income or expenditure for the purposes of housing subsidy, and

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- (b) shall not be regarded as a ground for recovering, withholding or reducing any sum under section 427 (recoupment of housing subsidy).”.

Marginal Citations

M6 1985 c. 68.

- 33 In section 434 of the Housing Act 1985 (the index to Part XIII) at the appropriate place insert—
 “management agreement sections 27(2) and 27B(4)”.
- 34 In section 444(4) of the Housing Act 1985 (advances relevant to certain powers of local authority to give assistance), for the words from “by” to the end substitute “a housing authority”.

Modifications etc. (not altering text)

C2 Sch. 5 para. 34 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 3.

Commencement Information

I7 Sch. 5 para. 34 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

- 35 In section 452 of the Housing Act 1985 (vesting of house in authority entitled to exercise power of sale), in subsection (2) omit the definition of “housing authority”.

Modifications etc. (not altering text)

C3 Sch. 5 para. 35 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

Commencement Information

I8 Sch. 5 para. 35 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

- 36 In section 453 of the Housing Act 1985 (power of authority which has granted shared ownership lease to make further advances), omit subsection (2) (which defines “housing authority”).

Modifications etc. (not altering text)

C4 Sch. 5 para. 36 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

Commencement Information

I9 Sch. 5 para. 36 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

- 37 In section 458 of the Housing Act 1985 (minor definitions), at the appropriate place insert—
 ““housing authority” includes any local authority, an urban development corporation, the Housing Corporation and a registered housing association;”.

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Modifications etc. (not altering text)

C5 Sch. 5 para. 37 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

Commencement Information

I10 Sch. 5 para. 37 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

38 In section 459 of the Housing Act 1985 (the index to Part XIV), at the appropriate places insert—

“housing authority	sections 4(a) and 458”
“service charge	section 621 A”.

Modifications etc. (not altering text)

C6 Sch. 5 para. 38 restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 4.

Commencement Information

I11 Sch. 5 para. 38 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

39 After section 621 of the Housing Act 1985 insert—

“621A Meaning of “service charge” and related expressions.

- (1) In this Act “service charge” means an amount payable by a purchaser or lessee of premises—
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the vendor’s or lessor’s costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the payee, or (in the case of a lease) a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose—
 - (a) “costs” includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
- (4) In relation to a service charge—
 - (a) the “payee” means the person entitled to enforce payment of the charge, and
 - (b) the “payer” means the person liable to pay it.”.

40 (1) Schedule 4 to the ^{M7}Housing Act 1985 (the qualifying period for the right to buy) is amended as follows.

(2) After paragraph 5 insert—

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“ Periods during which right to buy is preserved

5A A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the secure tenant, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

was a qualifying person for the purposes of the preserved right to buy or was the spouse of such a person and occupied the qualifying dwelling-house as his only or principal home.”.

(3) In paragraph 7 (the landlord condition for qualifying period)—

- (a) in sub-paragraph (1), in the opening words, after “subject to” insert “paragraph 7A and to”, and omit the words from “a housing co-operative” to “management functions”;
- (b) in sub-paragraph (2), omit the words from “a housing co-operative” to “1975”.

(4) After paragraph 7 insert—

“7A (1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—

- (a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or
- (b) in Scotland, by an islands or district council,

if the interest of the landlord belonged to the housing co-operative.

(2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—

- (a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and
- (b) as regards Scotland mean an agreement made under section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 and a housing co-operative within the meaning of that section.”.

Modifications etc. (not altering text)

C7 Sch. 5 para. 40(2)(3)(4) restricted (11.7.1992) by S.I. 1992/1753, art. 2(2), Sch. para. 5.

Commencement Information

I12 Sch. 5 para. 40 wholly in force at 17.8.1992 see s. 57 and S.I. 1992/1753, art. 2(2).

Marginal Citations

M7 1985 c. 68.

41 (1) Paragraph 14 of Schedule 6 to the ^{M8}Housing Act 1985 (terms of lease granted in pursuance of right to buy: implied covenants by landlord) is amended as follows.

(2) In sub-paragraph (2), omit the words following paragraph (c).

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(3) In sub-paragraph (3), for the words from the beginning to “requirement” insert “There is an implied covenant”.

(4) After sub-paragraph (3) insert—

“(3A) Sub-paragraphs (2) and (3) have effect subject to paragraph 15(3) (certain obligations not to be imposed, where landlord’s title is leasehold, by reason of provisions of superior lease).”.

Marginal Citations

M8 1985 c. 68.

Housing Associations Act 1985

42 In Part II of the ^{M9}Housing Associations Act 1985 (financial provisions), after section 69 insert—

“69A Land subject to housing management agreement.

A housing association is not entitled to a housing association grant, revenue deficit grant or hostel deficit grant in respect of land comprised in—

- (a) a management agreement within the meaning of the Housing Act 1985 (see sections 27(2) and 27B(4) of that Act; delegation of housing management functions by certain authorities), or
- (b) an agreement to which section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 applies (agreements for exercise by housing co-operatives of certain local authority housing functions).”.

Marginal Citations

M9 1985 c. 69.

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