



# Housing Act 1988

## 1988 CHAPTER 50

### PART IV

#### CHANGE OF LANDLORD: SECURE TENANTS

##### *Final procedures*

#### **102 Consultations by applicant**

- (1) During such period as may be prescribed beginning with,—
- (a) if there is a determination by the district valuer under section 99 above, notification to the applicant of that determination,
  - (b) if there is no such determination, service of the landlord's notice under that section,

the applicant shall consult, in accordance with such provisions as may be prescribed, tenants to whom this section applies.

- (2) This section applies—
- (a) to any qualifying tenant, or tenant under a long tenancy, who on the relevant date occupied a dwelling-house proposed to be included in the acquisition and continued to occupy the dwelling during the period referred to in subsection (1) above; and
  - (b) to any tenant of a description prescribed for the purposes of section 100(2) above; and
  - (c) to any tenant of a description prescribed for the purposes of this section.

#### **103 Notice by applicant of intention to proceed**

- (1) Subject to subsection (2) below, the applicant may, within two weeks of the end of the period mentioned in section 102 above, serve on the landlord notice of his intention to proceed with the acquisition; and in that notice the applicant, in such circumstances as may be prescribed, may inform the landlord—

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*Status: This is the original version (as it was originally enacted).*

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- (a) that he wishes to enter into a prescribed covenant to make payments to the landlord on the occasion of any prescribed disposal (occurring after the date of the acquisition) of a dwelling-house comprised in the property to be acquired; and
  - (b) that he requires the value of that covenant to be taken into account in reducing the price which would otherwise be payable for the property to be acquired.
- (2) The applicant shall not be entitled to serve a notice under subsection (1) above if, in response to the consultation under section 102 above,—
  - (a) less than 50 per cent. of the tenants to whom that section applies have given notice of their wishes in such manner as may be prescribed; or
  - (b) the number of tenants to whom that section applies who have given notice in that manner of their wish to continue as tenants of the landlord exceeds 50 per cent. of the total number of tenants to whom that section applies.
- (3) In any case where a tenancy is held by two or more persons jointly, those persons shall be regarded as a single tenant for the purposes of subsection (2) above and, accordingly, any notice given in response to the consultation under section 102 above shall be of no effect for the purposes of subsection (2) above unless it is given by or on behalf of all the joint tenants.
- (4) A notice under subsection (1) above shall contain—
  - (a) a list of the names and addresses of tenants to whom section 102 above applies (if any) who have given notice as mentioned in subsection (2)(b) above;
  - (b) a list of the houses (if any) which are, by virtue of regulations under section 100 above, to be excluded from the acquisition;
  - (c) a list of flats (if any) of which the applicant is required, by virtue of such regulations, to grant leases to the landlord and a statement of the proposed terms of those leases;
  - (d) such information as may be necessary to show how the lists mentioned in paragraphs (a), (b) and (c) above were established; and
  - (e) the price payable for the property to be acquired (disregarding any reduction by virtue of such a covenant as is referred to in subsection (1) above) or, as the case may be, the disposal cost attributable to that property.
- (5) Within two weeks of service of the notice under subsection (1) above, the landlord shall notify the applicant in writing of any matters stated in that notice which it does not accept.
- (6) Where a notice has been served under subsection (1) above, every tenant to whom section 102 above applies and who has not given notice as mentioned in subsection (2) (b) above shall be taken to have accepted, and to have given consideration for, any offer which—
  - (a) relates to the terms on which, after the acquisition, he is to occupy the dwelling-house occupied by him on the relevant date;
  - (b) was made to him by the applicant either in the course of the consultation required by subsection (1) of section 102 above or otherwise before the end of the period referred to in that subsection; and
  - (c) was neither withdrawn by the applicant nor rejected by the tenant before the end of that period.
- (7) Regulations prescribing any of the matters referred to in subsection (1) above shall also make provision with respect to the determination of the amounts which are to

be payable on the occasion of prescribed disposals; and the amount of any reduction in the price payable for the property to be acquired which is attributable to such a covenant as is referred to in that subsection shall be determined by the district valuer.

#### **104 Duty to complete and consequences of completion**

- (1) Where the applicant has served on the landlord a notice under section 103(1) above, then, as soon as any dispute as to any matters stated in that notice has been determined and, where appropriate, any determination has been made under section 103(7) above—
  - (a) the landlord shall make to the applicant a grant of the property included in the acquisition for an estate in fee simple absolute, but subject to any rights to be retained by the landlord; and
  - (b) the applicant shall grant to the landlord leases of any flats of which he is required to grant leases by regulations under section 100 above.
- (2) The terms of any grant or lease under subsection (1) above shall comply with such requirements as may be prescribed.
- (3) The duties imposed by the preceding provisions of this section are enforceable by injunction.
- (4) Notwithstanding anything in section 141 of the Law of Property Act 1925 (rent and benefit of lessee's covenants to run with the reversion) any rent or other sum which—
  - (a) arises under a tenancy of any property included in the acquisition, and
  - (b) falls due before the date of the grant under subsection (1) above,shall continue to be recoverable by the landlord to the exclusion of the applicant and of any other person in whom the reversion on the tenancy may become vested.
- (5) Without prejudice to the application of Part VIII of the Local Government, Planning and Land Act 1980 (capital expenditure of local authorities) to the price received by the landlord on the disposal (as mentioned in subsection (1)(a) above) of the property included in the acquisition, where there is a disposal cost attributable to that property any payments made by the landlord in respect of that cost shall be prescribed expenditure for the purposes of that Part.