



# Housing Act 1988

## 1988 CHAPTER 50

### PART IV

#### CHANGE OF LANDLORD: SECURE TENANTS

##### *Initial procedures*

#### **96 Application to exercise right**

- (1) An application claiming to exercise the right conferred by this Part—
  - (a) shall be made in the prescribed form to the public sector landlord concerned; and
  - (b) shall specify and be accompanied by a plan which shows—
    - (i) the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above; and
    - (ii) the property proposed to be acquired by virtue of paragraph (b) of that subsection.
- (2) Where an application claiming to exercise the right conferred by this Part specifies, as a building proposed to be acquired by virtue of section 93(1)(a) above, a building containing a dwelling-house which is subject to an approved co-operative management agreement, the application—
  - (a) shall specify all the buildings which contain dwelling-houses subject to the agreement and in which the public sector landlord has the fee simple estate; and
  - (b) shall not specify (by virtue of paragraph (a) or paragraph (b) of subsection (1) of section 93 above) any building which contains dwelling-houses if none of them is subject to the agreement.
- (3) For the purposes of subsection (2) above, an approved co-operative management agreement is an agreement—

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- (a) which is made with the approval of the Secretary of State under section 27 of the Housing Act 1985, either as originally enacted or as substituted by section 10 of the Housing and Planning Act 1986; and
- (b) under which the body exercising functions of the local housing authority is a society, company or body of trustees approved by the Secretary of State for the purposes of subsection (2) above.

## **97 Information etc. for applicant**

- (1) Within four weeks of the relevant date, the landlord shall serve on the applicant a notice specifying—
  - (a) the name and address of every tenant or licensee of a dwelling-house which the buildings proposed to be acquired by virtue of section 93(1)(a) above comprise or contain; and
  - (b) the general nature of his tenancy or licence.
- (2) As from four weeks after that date, the applicant shall have the following rights, namely—
  - (a) a right of access, at any reasonable time and on giving reasonable notice, to any property proposed to be acquired which is not subject to a tenancy;
  - (b) a right, on giving reasonable notice, to be provided with a list of any documents to which subsection (3) below applies;
  - (c) a right to inspect, at any reasonable time and on giving reasonable notice, any documents to which that subsection applies; and
  - (d) a right, on payment of a reasonable fee, to be provided with a copy of any documents inspected under paragraph (c) above.
- (3) This subsection applies to any document in the possession of the landlord—
  - (a) sight of which is reasonably required for the purpose of pursuing the application; and
  - (b) which, on a proposed sale by a willing vendor to a willing purchaser of the property proposed to be acquired, the landlord, as vendor, would be expected to make available to the purchaser (whether at or before contract or completion).
- (4) In this section “document” has the same meaning as in Part I of the Civil Evidence Act 1968.

## **98 Determination of property to be included**

- (1) Within twelve weeks of the relevant date, the landlord shall serve on the applicant a notice stating—
  - (a) which (if any) of the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above should be excluded from the acquisition on the ground that they do not comprise or contain one or more dwelling-houses which on the relevant date were occupied by qualifying tenants;
  - (b) which (if any) property proposed to be acquired by virtue of paragraph (b) of that subsection should be excluded from the acquisition on the ground that it is not reasonably required for occupation with any of the buildings proposed to be acquired by virtue of paragraph (a) of that subsection or that it is reasonably

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- required for occupation with such of those buildings as should be excluded from the acquisition on the ground mentioned in paragraph (a) above;
- (c) which (if any) property proposed to be acquired by virtue of either paragraph of that subsection should be excluded from the acquisition on the ground that its inclusion is precluded by section 95 above or that it is reasonably required for occupation with property the inclusion of which is so precluded or that it is a building which is excluded from the acquisition by virtue of section 96(2)(b) above;
  - (d) which property (if any) the landlord desires to have included in the acquisition on the ground that it cannot otherwise be reasonably managed or maintained;
  - (e) which rights (if any) the landlord desires to retain over property included in the acquisition on the ground that they are necessary for the proper management or maintenance of land to be retained by the landlord;
  - (f) the other proposed terms of the conveyance; and
  - (g) such other particulars as may be prescribed.
- (2) A building which is excluded from an acquisition by virtue of section 95 or section 96(2)(b) above may not be included by virtue of subsection (1)(d) above.
- (3) Where a notice under subsection (1) above specifies property falling within paragraph (d) of that subsection, the applicant shall have a right of access, at any reasonable time and on giving reasonable notice, to any of that property which is not subject to a tenancy.
- (4) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.
- (5) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined—
- (a) by a person agreed to by the parties or, in default of agreement, appointed by the Secretary of State; and
  - (b) in accordance with such provisions (including provisions as to costs) as may be prescribed.
- (6) In relation to a proposed acquisition under this Part, any reference in the following provisions of this Part to the property to which the acquisition relates is a reference to the whole of the property which, in accordance with the provisions of this section, is to be acquired, disregarding the effect of any exclusion by virtue of regulations under section 100 below.

## **99 Determination of purchase price**

- (1) Within eight weeks of—
- (a) if there is no dispute as to any of the matters stated in the notice under section 98(1) above, the service of that notice, or
  - (b) if there is such a dispute, the determination of the dispute,
- the landlord shall serve on the applicant a notice specifying—
- (i) the price which, disregarding sections 100(3) and 103(1) below, it considers should be payable for the property to be acquired or, as the case may be, the disposal cost which, disregarding section 100(3) below, is attributable to the property to be acquired by virtue of subsection (3) below; and

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- (ii) if the property to which the acquisition relates includes dwelling-houses which are houses as well as other property, an amount which the landlord considers to be the amount attributable to houses as defined in section 100(4)(b) below.
- (2) Subject to sections 100(3) and 103(1) below, the price payable for the property to be acquired shall be the price which on the relevant date the property to which the acquisition relates would realise if sold on the open market by a willing vendor on the following assumptions, namely—
- (a) that it was sold subject to any tenancies subsisting on that date but otherwise with vacant possession;
  - (b) that it was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of the right of acquisition;
  - (c) that the only bidders in the market were persons who on that date either were approved under section 94 above or fulfilled the criteria for approval established under subsection (3) of that section;
  - (d) that the applicant would, within a reasonable period, carry out such works as are reasonably necessary to put the buildings included in the acquisition into the state of repair required by the landlord's repairing obligations; and
  - (e) that the applicant would not be required to grant any leases in pursuance of regulations made under section 100 below.
- (3) Subject to section 100(3) below, there is a disposal cost attributable to the property to be acquired if, having regard to the expense likely to be incurred in carrying out the works referred to in paragraph (d) of subsection (2) above, the property to which the acquisition relates would not realise any price in the circumstances specified in that subsection; and that disposal cost is the amount by which the expense likely to be so incurred exceeds what would be determined under that subsection as the price if those works had already been carried out.
- (4) The notice under subsection (1) above shall contain sufficient information to enable the applicant to see how the price or, as the case may be, disposal cost and any amount referred to in sub-paragraphs (i) and (ii) of subsection (1) above were arrived at and, if the property to which the acquisition relates consists of or includes any dwelling-houses which are houses, the notice shall also contain a list of the addresses of the houses together with the number of habitable rooms in each of them.
- (5) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.
- (6) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined by the district valuer, in accordance with such provisions (including provisions as to costs) as may be prescribed.