



# Housing Act 1988

## 1988 CHAPTER 50

### PART IV

#### CHANGE OF LANDLORD: SECURE TENANTS

##### *Supplemental*

#### **106 Service of information, advice and assistance**

- (1) The Corporation may provide in connection with this Part a service of information, advice and assistance to, and for the benefit of,—
  - (a) persons who have been approved or are considering applying for approval under section 94 above; and
  - (b) persons who are tenants of public sector landlords.
- (2) The Corporation may make charges for information, advice and assistance provided under this section otherwise than to persons falling within subsection (1)(b) above.
- (3) The powers conferred on the Corporation by this section may be exercised by the Housing Corporation and Housing for Wales acting jointly.

#### **107 Power of Corporation to provide legal assistance to tenants in relation to acquisitions**

- (1) On an application by the tenant of a dwelling-house who is a party or a prospective party to proceedings or prospective proceedings falling within subsection (2) below, the Corporation may give assistance to the tenant if it thinks fit to do so—
  - (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the tenant to deal with it without assistance; or
  - (c) by reason of any other special consideration.
- (2) The proceedings referred to in subsection (1) above are—

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- (a) proceedings to determine any question arising in relation to an acquisition or proposed acquisition under this Part; and
- (b) proceedings to determine any dispute arising after an acquisition under this Part between a transferred tenant of a dwelling-house included in the acquisition and the body by which the acquisition was made;

and for the purposes of paragraph (b) above a tenant of a dwelling-house is a transferred tenant of it if he was the qualifying tenant of it at the time of the acquisition or is the widow or widower of the person who was then the qualifying tenant of it.

- (3) Assistance given by the Corporation 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;
  - (d) 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 Corporation may consider appropriate;
- but paragraph (d) above 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.
- (4) In so far as expenses are incurred by the Corporation in providing the tenant 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 Corporation—
- (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 tenant 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 1988 and to any provision of that Act for payment of any sum to the Legal Aid Board.

## **108 Registration of title and related matters**

Schedule 12 to this Act shall have effect with respect to registration of title and related matters arising on acquisitions of property under this Part and disposals of property so acquired.

## **109 Public open space etc**

- (1) To the extent that any 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),

is included in an acquisition under this Part, it 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 that section.

- (2) Nothing in section 5 of the Green Belt (London and Home Counties) Act 1938 (restrictions on alienation of land by local authorities) applies in relation to a disposal of land included in an acquisition under this Part.

## **110 Extension etc. of relevant periods**

- (1) In this section “relevant period” means any period within which anything is required by this Part to be done by either of the parties, that is to say, the applicant and the landlord.
- (2) At any time before the end of any relevant period, or any such period as previously extended under this subsection, the other party may, by a written notice served on the party to whom the requirement relates, extend or further extend that period.
- (3) Where a notice of revocation of the applicant’s approval is served under subsection (5) of section 94 above and subsequently withdrawn as mentioned in paragraph (b) of that subsection, any relevant period which, apart from this subsection, would have expired before the withdrawal shall be taken to be extended by a period equal to that beginning with the date of the service of the notice of revocation and ending on the date of the withdrawal.
- (4) Where—
  - (a) the applicant is the party to whom the requirement relates, and
  - (b) the relevant period, or that period as extended under subsection (2) above, expires without his doing what he is required by this Part to do within that period,

his application claiming to exercise the right conferred by this Part shall be deemed to be withdrawn, but without prejudice to his making a further such application.

## **111 Power to prescribe forms etc**

The Secretary of State may by regulations prescribe—

- (a) anything which by this Part is to be prescribed; and
- (b) the form of any notice, statement or other document which is required or authorised to be used under or for the purposes of this Part.

## **112 Orders and regulations**

- (1) Any power of the Secretary of State to make orders or regulations under this Part shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Part, other than regulations under section 111(b) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Orders or regulations under this Part may make different provision for different cases or circumstances or different areas and may contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.

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### **113 Jurisdiction of county court**

- (1) Subject to sections 98(5) and 99(6) above, a county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part; and
  - (b) to determine any question arising under this Part.
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1) above notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes in the High Court proceedings which, by virtue of this section, he could have taken in the county court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court.
- (4) In a case falling within subsection (3) above the taxing master shall have the same power of directing on what scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.

### **114 Interpretation of Part IV**

- (1) In this Part—
  - “the 1985 Act” means the Housing Act 1985;
  - “the Corporation” means the Housing Corporation or Housing for Wales but—
    - (a) an approval given by the Housing Corporation shall not have effect in relation to buildings or other property in Wales; and
    - (b) an approval given by Housing for Wales shall not have effect in relation to buildings or other property in England;
  - “qualifying tenant” shall be construed in accordance with subsections (3) and (4) of section 93 above;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “property” means land with or without buildings;
  - “public sector landlord” has the meaning given by section 93(2) above;
  - “the relevant date” has the meaning given by section 93(5) above; and
  - “habitable room”, in relation to a house, means a room used, or intended for use, as a bedroom, living room, dining room or kitchen.
- (2) Subject to subsection (1) above, in this Part expressions which are also used in Part V of the 1985 Act have the same meaning as in that Part.