



# Housing Act 1988

## 1988 CHAPTER 50

### PART V

#### MISCELLANEOUS AND GENERAL

##### *Right to buy etc. and grants to obtain accommodation*

#### **122 Variation of cost floor for right to buy discount**

- (1) Section 131 of the Housing Act 1985 (limits on amount of discount in relation to the right to buy) shall be amended in accordance with subsections (2) and (3) below.
- (2) In subsection (1) (the cost floor provision) for paragraph (a) there shall be substituted the following paragraph—
  - “(a) is to be treated as incurred at or after the beginning of that period of account of the landlord in which falls the date which is eight years, or such other period of time as may be specified in an order made by the Secretary of State, earlier than the relevant time, and”.
- (3) After subsection (1) there shall be inserted the following subsection—
  - “(1A) In subsection (1)(a) above “period of account”, in relation to any costs, means the period for which the landlord made up those of its accounts in which account is taken of those costs.”
- (4) This section has effect in relation to the determination of discount in any case where—
  - (a) the relevant time falls on or after the date on which this section comes into force; or
  - (b) paragraph (a) above does not apply but the landlord has not before that date served on the tenant a notice complying with section 125 of the Housing Act 1985; or
  - (c) the tenant has before that date claimed to exercise the right to be granted a shared ownership lease but the landlord has not before that date served on the tenant a notice complying with section 147 of that Act; or

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- (d) the tenant has before that date served a notice under paragraph 1 of Schedule 8 to that Act (claiming to exercise the right to acquire an additional share under a shared ownership lease) but the landlord has not before that date served a notice under sub-paragraph (3) of that paragraph;

and, for the purposes of this subsection, no account shall be taken of any steps taken under section 177 of that Act (amendment or withdrawal and re-service of notice to correct mistakes).

- (5) Expressions used in subsection (4) above have the same meaning as in Part V of the Housing Act 1985.

### **123 Amendment of Schedule 5 to Housing Act 1985**

- (1) Schedule 5 of the Housing Act 1985 (exceptions to the right to buy) shall be amended in accordance with this section.
- (2) Paragraphs 6 and 8 shall be omitted.
- (3) The repeal by this Act of paragraphs 6 and 8 of Schedule 5 shall not affect the operation of either of those paragraphs in any case where the tenant's notice claiming to exercise the right to buy was served before the repeal comes into force unless, at that time, no notice in response had been served under section 124 of the Housing Act 1985 (landlord's notice admitting or denying right to buy).
- (4) For the purposes of subsection (3) above, no account shall be taken of any steps taken under section 177 of the Housing Act 1985 (amendment or withdrawal and re-service of notice to correct mistakes).

### **124 Right to buy: tenant's sanction for landlord's delays**

After section 153 of the Housing Act 1985 there shall be inserted the following sections—

#### **“153A Tenant's notices of delay**

- (1) Where a secure tenant has claimed to exercise the right to buy, he may serve on his landlord a notice (in this section referred to as an “initial notice of delay”) in any of the following cases, namely,—
  - (a) where the landlord has failed to serve a notice under section 124 within the period appropriate under subsection (2) of that section;
  - (b) where the tenant's right to buy has been established and the landlord has failed to serve a notice under section 125 within the period appropriate under subsection (1) of that section;
  - (c) where the tenant has claimed to exercise the right to be granted a shared ownership lease and the landlord has failed to serve a notice under section 146 within the period of the four weeks required by that section;
  - (d) where the tenant's right to a shared ownership lease has been established and the landlord has failed to serve a notice under section 147 within the period of the eight weeks required by that section; or

- (e) where the tenant considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy or his right to be granted a shared ownership lease;

and where an initial notice of delay specifies any of the cases in paragraphs (a) to (d), any reference in this section or section 153B to the default date is a reference to the end of the period referred to in the paragraph in question or, if it is later, the day appointed for the coming into force of section 124 of the Housing Act 1988.

- (2) An initial notice of delay—
  - (a) shall specify the most recent action of which the tenant is aware which has been taken by the landlord pursuant to this Part of this Act; and
  - (b) shall specify a period (in this section referred to as “the response period”), not being less than one month, beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (3) will have the effect of cancelling the initial notice of delay.
- (3) Within the response period specified in an initial notice of delay or at any time thereafter, the landlord may serve on the tenant a counter notice in either of the following circumstances—
  - (a) if the initial notice specifies any of the cases in paragraphs (a) to (d) of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, section 125, section 146 or section 147, as the case may be; or
  - (b) if the initial notice specifies the case in subsection (1)(e) and there is no action under this Part which, at the beginning of the response period, it was for the landlord to take in order to allow the tenant expeditiously to exercise his right to buy or his right to be granted a shared ownership lease and which remains to be taken at the time of service of the counter notice.
- (4) A counter notice under subsection (3) shall specify the circumstances by virtue of which it is served.
- (5) At any time when—
  - (a) the response period specified in an initial notice of delay has expired, and
  - (b) the landlord has not served a counter notice under subsection (3),the tenant may serve on the landlord a notice (in this section and section 153B referred to as an “operative notice of delay”) which shall state that section 153B will apply to payments of rent made by the tenant on or after the default date or, if the initial notice of delay specified the case in subsection (1)(e), the date of the service of the notice.
- (6) If, after a tenant has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the tenant has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the tenant may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.

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### **153B Payments of rent attributable to purchase price etc**

- (1) Where a secure tenant has served on his landlord an operative notice of delay, this section applies to any payment of rent which is made on or after the default date or, as the case may be, the date of the service of the notice and before the occurrence of any of the following events (and, if more than one event occurs, before the earliest to occur)—
  - (a) the service by the landlord of a counter notice under section 153A(3);
  - (b) the date on which the landlord makes to the tenant the grant required by section 138 or, as the case may be, section 150;
  - (c) the date on which the tenant serves notice under section 142(2) (claiming to be entitled to defer completion);
  - (d) the date on which the tenant withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy or, as the case may be, the notice claiming to exercise the right to be granted a shared ownership lease; and
  - (e) the date on which the tenant ceases to be entitled to exercise the right to buy.
- (2) Except where this section ceases to apply on a date determined under any of paragraphs (c) to (e) of subsection (1), so much of any payment of rent to which this section applies as does not consist of—
  - (a) a sum due on account of rates, or
  - (b) a service charge (as defined in section 621A),
 shall be treated not only as a payment of rent but also as a payment on account by the tenant which is to be taken into account in accordance with subsection (3).
- (3) In a case where subsection (2) applies, the amount which, apart from this section, would be the purchase price or, as the case may be, the tenant's initial contribution for the grant of a shared ownership lease shall be reduced by an amount equal to the aggregate of—
  - (a) the total of any payments on account treated as having been paid by the tenant by virtue of subsection (2); and
  - (b) if those payments on account are derived from payments of rent referable to a period of more than twelve months, a sum equal to the appropriate percentage of the total referred to in paragraph (a).
- (4) In subsection (3)(b) "the appropriate percentage" means 50 per cent. or such other percentage as may be prescribed."

### **125 Restriction on letting etc. of certain houses in National Parks etc**

- (1) Section 37 of the Housing Act 1985 (restriction on disposals of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word "his" there shall be inserted "(a)" and at the end there shall be added "and
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the authority unless the disposal is to a person satisfying that condition or by a person whose only or principal home

is and, throughout the duration of the tenancy or licence, remains the house”.

- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.
- (4) At the end of subsection (4) (disposals in breach of covenant to be void) there shall be added “and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the local authority as if—
  - (a) the authority were possessed of land adjacent to the house concerned; and
  - (b) the covenant were expressed to be made for the benefit of such adjacent land”.
- (5) After subsection (4) there shall be inserted the following subsection—

“(4A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.”
- (6) This section has effect where the conveyance, grant or assignment referred to in subsection (1) of section 37 is executed on or after the commencement of this Act.

## **126 Restriction on disposal of dwelling-houses in National Parks etc. acquired under the right to buy**

- (1) In Part V of the Housing Act 1985 (the right to buy), section 157 (restriction on disposal of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word “his” there shall be inserted “(a)” and at the end there shall be added “and—
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house”.
- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.
- (4) At the end of subsection (6) (disposals in breach of covenant to be void) there shall be added “and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—
  - (a) the landlord were possessed of land adjacent to the house concerned; and
  - (b) the covenant were expressed to be made for the benefit of such adjacent land”.
- (5) After subsection (6) there shall be inserted the following subsection—

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“(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.”

- (6) This section has effect where the conveyance or grant referred to in subsection (1) of section 157 is executed on or after the commencement of this Act.

## **127 Preserved right to buy**

- (1) In subsection (4) of section 171B of the Housing Act 1985 for paragraph (a) there shall be substituted the following paragraphs—

“(a) where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was tenant under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant’s family who acquired that assured tenancy under the will or intestacy of the former secure tenant;

(aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant’s family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy”.

- (2) In subsection (2)(a) of section 171C of that Act after the word “paragraphs” there shall be inserted “1, 3 and”.

- (3) After subsection (4) of that section there shall be added the following subsection—

“(5) The disapplication by the regulations of paragraph 1 of Schedule 5 shall not be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.”

## **128 Preservation of right to buy on disposal to private sector landlord: Scotland**

After section 81 of the Housing (Scotland) Act 1987 there shall be inserted the following section—

*“Preservation of right to buy on disposal to private sector landlord*

### **81A Preservation of right to buy on disposal to private sector landlord**

- (1) The right to buy provisions shall continue to apply where a person ceases to be a secure tenant of a house by reason of the disposal by the landlord of an interest in the house to a private sector landlord.
- (2) The right to buy provisions shall not, however, continue to apply under subsection (1) in such circumstances as may be prescribed.
- (3) The continued application under subsection (1) of the right to buy provisions shall be in accordance with and subject to such provision as is prescribed which may—
  - (a) include—

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- (i) such additions and exceptions to, and adaptations and modifications of, the right to buy provisions in their continued application by virtue of this section; and
    - (ii) such incidental, supplementary and transitional provisions; as the Secretary of State considers appropriate;
  - (b) differ as between different cases or descriptions of case and as between different areas;
  - (c) relate to a particular disposal.
- (4) Without prejudice to the generality of subsection (3), provision may be made by virtue of it—
- (a) specifying the persons entitled to the benefit of the right to buy provisions in their continued application by virtue of this section;
  - (b) preventing, except with the consent of the Secretary of State, the disposal by the private sector landlord of less than his whole interest in a house in relation to which the right to buy provisions continue to apply by virtue of this section;
  - (c) ensuring that where, under Ground 9 of Schedule 5 to the Housing (Scotland) Act 1988 (availability of suitable alternative accommodation), the sheriff makes an order for possession of a house in relation to which the right to buy provisions continue to apply by virtue of this section and the tenant would not have the right under this Part (other than this section) to buy the house which is or will be available by way of alternative accommodation, these provisions as so continued will apply in relation to the house which is or will be so available.
- (5) In this section—
- (a) “secure tenant” means a tenant under a secure tenancy;
  - (b) “private sector landlord” means a landlord other than one of those set out in sub-paragraphs (i) to (iv) and (viii) and (ix) of paragraph (a) of subsection (2) of section 61;
  - (c) the “right to buy provisions” means the provisions of this Act relating to the right of a tenant of a house to purchase it under this Part and to his rights in respect of a loan.”

## **129 Schemes for payments to assist local housing authority tenants to obtain other accommodation**

- (1) In accordance with a scheme made by a local housing authority and approved by the Secretary of State under this section, the authority may make grants to or for the benefit of qualifying tenants or licensees of the authority with a view to assisting each person to whom or for whose benefit a grant is made to obtain accommodation otherwise than as a tenant or licensee of the authority either—
- (a) by acquiring an interest in a dwelling-house; or
  - (b) by carrying out works to a dwelling-house to provide additional accommodation; or
  - (c) by both of those means.
- (2) A scheme under this section shall contain such provisions as the local housing authority considers appropriate together with any which the Secretary of State may

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require as a condition of his approval and, without prejudice to the generality, a scheme may include provisions specifying, or providing for the determination of—

- (a) the persons who are qualifying tenants or licensees for the purposes of the scheme;
  - (b) the interests which qualifying tenants or licensees may be assisted to acquire;
  - (c) the works for the carrying out of which grants may be made;
  - (d) the circumstances in which a grant may be made for the benefit of a qualifying tenant or licensee;
  - (e) the amount of the grant which may be made in any particular case and the terms on which it may be made;
  - (f) the limits on the total number and amount of grants which may be made; and
  - (g) the period within which the scheme is to apply.
- (3) The Secretary of State may approve a scheme made by a local housing authority under this section with or without conditions and, where a scheme has been approved, the authority shall take such steps as it considers appropriate to bring the scheme to the attention of persons likely to be able to benefit from it and shall take such other steps (if any) as the Secretary of State may direct in any particular case to secure publicity for the scheme.
- (4) The Secretary of State may revoke an approval of a scheme under this section by a notice given to the local housing authority concerned; and, where such a notice is given, the revocation shall not affect the operation of the scheme in relation to any grants made or agreed before the date of the notice.
- (5) Any grant made pursuant to a scheme under this section—
- (a) shall be regarded as a grant of a capital nature for the purposes of Part VIII of the Local Government, Planning and Land Act 1980 (capital expenditure of local authorities); and
  - (b) shall be regarded as expenditure on management for the purposes of Part II of Schedule 14 to the Housing Act 1985 (debts to the Housing Revenue Account).
- (6) Where a scheme made by a local housing authority under this section has been approved, a person dealing with the authority shall not be concerned to see or enquire whether the terms of the scheme have been or are being complied with; and any failure to comply with the terms of a scheme shall not invalidate any grant purporting to be made in accordance with the scheme unless the person to whom the grant is made has actual notice of the failure.
- (7) In this section—
- (a) “local housing authority” has the meaning assigned by section 1 of the Housing Act 1985;
  - (b) “dwelling-house” has the meaning assigned by section 112 of that Act; and
  - (c) “tenant” does not include a tenant under a long tenancy, as defined in section 115 of that Act.