



# Leasehold Reform, Housing and Urban Development Act 1993

## 1993 CHAPTER 28

### PART II

#### PUBLIC SECTOR HOUSING

#### CHAPTER II

#### SCOTLAND

#### *Right to purchase*

#### 144 Abatement of purchase price

After section 66 of the 1987 Act there shall be inserted the following sections—

**“66A Abatement of purchase price on landlord’s failure before contract of sale**

- (1) Where a tenant who seeks to exercise a right to purchase a house under section 61 has served an application to purchase on the landlord and the landlord—
  - (a) not having served a notice of refusal, has failed to serve an offer to sell on the tenant within 2 months of the application or, where an amended offer to sell falls to be served on the tenant under subsection (3) of section 63, has failed to do so within the time limit specified in that subsection;
  - (b) having agreed to serve an amended offer to sell on the tenant in response to a request under section 65(1), has failed to do so within one month of the request;

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*Status: This is the original version (as it was originally enacted).*

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- (c) following an order by the Lands Tribunal to serve an amended offer to sell on the tenant under section 65(3), has failed to do so within 2 months of the date of the order;
- (d) following a finding by the Lands Tribunal under section 68(4), has failed to serve an offer to sell within 2 months of the date of the finding; or
- (e) following an order by the Lands Tribunal under section 71(2)(b), has failed to serve an offer or amended offer to sell within the time specified in the order,

the tenant may serve on the landlord a notice in writing requiring the landlord to serve on him, within one month of the date of the notice, the offer to sell or (as the case may be) the amended offer to sell which the landlord has failed to serve.

- (2) Where the landlord fails to serve the offer to sell or the amended offer to sell within one month of the date of the notice in writing under subsection (1), the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date on which the one month period expired and ending with the date on which the offer is served.

### **66B Abatement of purchase price on landlord's failure after contract of sale**

- (1) Where the landlord has failed and continues to fail to deliver a good and marketable title to the tenant in accordance with the contract of sale, the tenant may at any time serve on the landlord a notice (the “initial notice of delay”) setting out the landlord's failure and specifying—
  - (a) the most recent action of which the tenant is aware which has been taken by the landlord in fulfilment of his duties under this Part;
  - (b) a period (the “response period”), of not 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 (2) will have the effect of cancelling the initial notice of delay.
- (2) If 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 grant a good and marketable title to the tenant in implementation of the contract of sale, the landlord may serve on the tenant a counter notice either during or after the response period.
- (3) At any time when—
  - (a) the response period specified in the initial notice of delay has expired; and
  - (b) the landlord has not served a counter notice under subsection (2),
 the tenant may serve on the landlord a notice (the “operative notice of delay”) that this subsection shall apply to the price fixed under section 62; and thereupon the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date of service of the operative notice of delay and ending with whichever is the earlier of the following dates—
  - (i) the date of service by the landlord of a counter notice; or
  - (ii) the date of delivery by the landlord of a good and marketable title in implementation of the contract of sale.

- (4) Where the landlord has served a counter notice under subsection (2) the tenant (together with any joint purchaser) may, by serving on the clerk to the Lands Tribunal a copy of the initial notice of delay and of the landlord's counter notice together with a request for the matter to be so referred, refer the matter to the Tribunal for its consideration under subsection (5).
- (5) Where the matter has been so referred to the Lands Tribunal it shall consider whether or not in its opinion action which would have enabled a good and marketable title to be delivered in implementation of the contract of sale could have been taken by the landlord and shall find accordingly.
- (6) Where the Lands Tribunal finds that action could have been taken by the landlord the tenant shall be entitled to serve an operative notice of delay as if the landlord had not served a counter notice and in that event the commencement date for the purposes of subsection (3) shall be the date on which an operative notice of delay could first have been served if no counter notice had been served.

#### **66C Provisions relating to sections 66A and 66B**

- (1) Where there is more than one period in respect of which the price fixed under section 62 can be reduced under section 66A(2) or 66B(3), the periods may be aggregated and the price reduced by the total amount of the rent.
- (2) If the period in respect of which the price fixed can be so reduced is, or if the periods aggregated under subsection (1) together amount to, more than twelve months, the amount by which the price fixed under section 62 would, apart from this subsection, fall to be reduced shall be increased by 50% or such other percentage as the Secretary of State may by order made by statutory instrument and subject to annulment in pursuance of a resolution of either House of Parliament provide."

#### **145 Effect of abatement of purchase price on recovery of discount**

In section 72 of the 1987 Act (recovery of discount on early resale), after subsection (1) there shall be inserted the following subsection—

- “(1A) Where a tenant has served on the landlord a notice under section 66A(1), the commencement of the period of 3 years referred to in subsection (1) shall be backdated by a period equal to the time (or, where section 66C(1) applies, the aggregate of the times) during which, by virtue of section 66A(2), any payment of rent falls to be taken into account.”