



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 2

REGULATION OF SOCIAL HOUSING

CHAPTER 1

INTRODUCTION

Social housing

68 Basic principle

- (1) In this Part “social housing” means—
 - (a) low cost rental accommodation (defined by section 69), and
 - (b) low cost home ownership accommodation (defined by section 70).
- (2) Accommodation which becomes “social housing” by satisfying subsection (1)(a) or (b) remains “social housing” for the purposes of this Part unless and until an event specified in sections 73 to 76 occurs.
- (3) Section 77 makes transitional provision as a result of which certain accommodation is to be treated as “social housing” whether or not it satisfies subsection (1)(a) or (b).

69 Low cost rental

Accommodation is low cost rental accommodation if—

- (a) it is made available for rent,
- (b) the rent is below the market rate, and
- (c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.

70 Low cost home ownership

- (1) Accommodation is low cost home ownership accommodation if the following conditions are satisfied.
- (2) Condition 1 is that the accommodation is occupied, or made available for occupation, in accordance with—
 - (a) shared ownership arrangements,
 - (b) equity percentage arrangements, or
 - (c) shared ownership trusts.
- (3) Condition 2 is that the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.
- (4) “Shared ownership arrangements” means arrangements under a lease which—
 - (a) is granted on payment of a premium calculated by reference to a percentage of either the value of the accommodation or the cost of providing it, and
 - (b) provides that the tenant (or the tenant’s personal representatives) will or may be entitled to a sum calculated by reference to the value of the accommodation.
- (5) “Equity percentage arrangements” means arrangements under which—
 - (a) the owner of a freehold or leasehold interest in residential property (“the seller”) conveys it to an individual (“the buyer”),
 - (b) the buyer, in consideration for the conveyance—
 - (i) pays the seller a sum (the “initial payment”) expressed to represent a percentage of the value of the interest at the time of the conveyance, and
 - (ii) agrees to pay the seller other sums calculated by reference to a percentage of the value of the interest at the time when each sum is to be paid, and
 - (c) the liability to make any payment required by the arrangements (apart from the initial payment) is secured by a mortgage.
- (6) Shared ownership trusts has the same meaning as in Schedule 9 to the Finance Act 2003 (c. 14) (stamp duty land tax).
- (7) The Secretary of State may make regulations amending—
 - (a) the definition of “low cost home ownership accommodation”;
 - (b) the definition of any of the sub-categories specified in that definition.

71 Shared ownership low cost rental

Accommodation which is both low cost rental accommodation and low cost home ownership accommodation is to be treated as the latter and not as the former.

72 Regulations

- (1) The Secretary of State may make regulations providing that specified property, or a specified class of property, is or is not to be treated as social housing for the purposes of this Part.

- (2) The regulations may provide for property to be social housing despite not satisfying section 68(1)(a) or (b) where the Secretary of State thinks the property is of a kind, or is provided in circumstances, that serve the needs of a group whose needs are not adequately served by the commercial housing market.
- (3) The regulations—
 - (a) may override section 68(2),
 - (b) are subject to sections 68(3) and 77, and
 - (c) are subject to sections 69 and 70 (but may clarify doubt about the application of those sections).
- (4) The regulations—
 - (a) may make provision by reference to the opinion of the regulator or another specified person, and
 - (b) may make provision by reference to designation, agreement or other action by the regulator or another specified person.

73 Leaving the social housing stock: sale

- (1) A dwelling ceases to be social housing if it is sold to the tenant.
- (2) Low cost rental accommodation is “sold to the tenant” when the tenant exercises a statutory or contractual right and as a result becomes the owner of—
 - (a) the freehold interest in the property, or
 - (b) the leasehold interest previously owned by the person providing the social housing.
- (3) Low cost home ownership accommodation of the shared ownership kind is “sold to the tenant” when the tenant exercises a statutory or contractual right and as a result becomes the owner of—
 - (a) the freehold interest in the property, or
 - (b) the leasehold interest previously owned by the person providing the social housing.
- (4) Low cost home ownership accommodation of the equity percentage kind is “sold to the tenant” when the “buyer” (see section 70(5)(a)) exercises a statutory or contractual right as a result of which the equity percentage arrangements (see section 70(5)) come to an end.
- (5) Low cost home ownership accommodation of the shared ownership trust kind comes to an end when the “purchaser” (see paragraph 7(4)(a) of Schedule 9 to the Finance Act 2003 (c. 14)) exercises a statutory or contractual right as a result of which the trust comes to an end.

74 Leaving the social housing stock: expired lease

- (1) A dwelling ceases to be social housing if—
 - (a) the provider holds a leasehold interest in the dwelling, and
 - (b) the leasehold interest expires.
- (2) A lease from an associate or subsidiary of the provider is disregarded for the purposes of subsection (1).

75 Leaving the social housing stock: disposal with consent

- (1) A dwelling ceases to be social housing if it is disposed of with the regulator's consent in accordance with—
 - (a) Chapter 5,
 - (b) section 171D of the Housing Act 1985 (c. 68) (consent to certain disposals of housing obtained subject to the preserved right to buy), or
 - (c) section 81 or 133 of the Housing Act 1988 (c. 50) (consent to certain disposals of housing obtained from housing action trusts or local authorities).
- (2) Subsection (1) does not apply to a disposal in pursuance of shared ownership arrangements or equity percentage arrangements.
- (3) Subsection (1) does not apply if the consent is conditional upon the dwelling continuing to be low cost rental accommodation or low cost home ownership accommodation.
- (4) A condition of that kind shall include provision for determining when the dwelling ceases to be social housing.

76 Leaving the social housing stock: regulator's direction

- (1) The regulator may direct that a specified dwelling is to cease to be social housing.
- (2) The regulator may make a direction only on the application of the provider.

77 Housing stock under Housing Act 1996

- (1) This section applies to property owned by a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c. 52) before the coming into force of section 61 of this Act.
- (2) Property to which this section applies is social housing—
 - (a) whether or not it satisfies section 68(1)(a) or (b), and
 - (b) unless and until an event specified in sections 73 to 76 occurs.
- (3) But property to which any of the exceptions below applies when section 61 comes into force is social housing only if the purchase, construction or renovation of the property was funded by means of a grant under—
 - (a) section 19 (financial assistance by the HCA),
 - (b) section 18 of the Housing Act 1996 (social housing grant), or
 - (c) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985 (c. 69) or section 29 or 29A of the Housing Act 1974 (c. 44) (housing association grant).
- (4) Exception 1 is accommodation let on the open market.
- (5) Exception 2 is accommodation made available only to students in full-time education or training.
- (6) Exception 3 is a care home (within the meaning of the Care Standards Act 2000 (c. 14)) in which nursing is provided.

- (7) Exception 4 is accommodation provided in response to a request by the Secretary of State under section 100 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum seekers).
- (8) Exception 5 is property of a kind specified by regulations made by the Secretary of State.