Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 3

OTHER PROVISIONS

CHAPTER 2

LANDLORD AND TENANT MATTERS

Right to buy etc: miscellaneous

309 Former right to buy and other flats: equity share purchases

After section 450C of the Housing Act 1985 (c. 68) (loans in respect of service charges) insert—

"Other financial assistance in respect of service charges

450D Purchase of equitable interests

(1) The appropriate national authority may by regulations provide that where—

(a) a housing authority is the landlord of a flat under a long lease granted or assigned by the housing authority or another housing authority, and

(b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs or improvements (whether to the flat, the building in which it is situated or any other building or land),

the landlord may, with the agreement of the tenant and in such circumstances as may be prescribed, purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.

(2) Regulations under this section shall ensure that the purchase price is to be met by the landlord reducing or (as the case may be) cancelling the service charge

payable to the landlord by the tenant to such extent as corresponds to the amount concerned.

(3) Regulations under this section may, in particular—

(a) provide that the power to purchase an equitable interest does not arise in the case of particular descriptions of landlord;

(b) make provision about calculating the purchase price (including provision about any discounts and about imposing charges for the services of district valuers);

(c) provide for—

(i) the tenant to be liable for the administrative expenses of the landlord in connection with the purchase;

(ii) such expenses not to exceed such amount (if any) as may be specified in the regulations;

(iii) the purchase price to include, at the option of the purchaser, a deduction for such expenses;

(d) provide for an alteration, as a result of the purchase of the equitable interest, in the liability of the tenant for future service charges or improvement contributions.

(4) Regulations under this section may not contain provision for cases where the Secretary of State or the Welsh Ministers are the landlord unless the Welsh Ministers are the landlord—

(a) as the result of the exercise by them of functions under Part 3 of the Housing Associations Act 1985; or

(b) as the result of—

(i) the exercise by the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation of functions under Part 3 of the Act of 1985; and

(ii) the transfer of the flat to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the Government of Wales Act 2006.

(5) For the purposes of this section a long lease granted or assigned by—

(a) the Welsh Ministers, or

(b) in a case falling within subsection (4)(b), the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation,

shall be taken to have been granted or assigned by a housing authority if (but only if) the person concerned granted or assigned it in exercise of its powers under section 90 of the Housing Associations Act 1985.

(6) This section does not affect any other power of the landlord to purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.

(7) Regulations under this section may apply whenever the lease concerned was granted or assigned and whenever the service charge concerned became payable.

(8) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make different provision for different cases or descriptions of case including different provision for different areas;

(c) may contain such incidental, supplementary and transitional provisions as the appropriate national authority considers appropriate.

(9) An instrument containing regulations made under this section—

(a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament;

(b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(10) In this section—

"appropriate national authority" means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers;

"former National Assembly for Wales" means the Assembly constituted by the Government of Wales Act 1998;

"housing authority"—

(a) does not include a registered provider of social housing, or a registered social landlord, which is a co-operative housing association;

(b) includes a co-operative housing association which is neither a registered provider of social housing nor a registered social landlord;

"improvement contribution" has the same meaning as in Part 5 (see section 187);

"repairs" includes works for making good a structural defect."