

SCHEDULE 2

Regulation 2(2)

PART V AS IT APPLIES IN CASES WHERE THE RIGHT TO BUY IS PRESERVED

The Right to Buy

The right to buy

118.—(1) A qualifying person has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—

- (a) if the qualifying dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the qualifying dwelling-house;
- (b) if the landlord does not own the freehold or if the qualifying dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the qualifying dwelling-house.

Qualifying period for right to buy

119.—(1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.

(2) Where the tenancy held by the qualifying person is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

Exceptions to the right to buy

120. The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

Circumstances in which the right to buy cannot be exercised

121.—(1) The right to buy cannot be exercised if the qualifying person is obliged to give up possession of the qualifying dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.

(2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—

- (a) has a bankruptcy petition pending against him,
- (b) is an undischarged bankrupt, or
- (c) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

Claim to exercise right to buy

Qualifying person's notice claiming to exercise right to buy

122.—(1) A qualifying person claims to exercise the right to buy by written notice to that effect served on the landlord.

(2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.

(3) The notice may be withdrawn at any time by notice in writing served on the landlord.

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(4) Where the qualifying dwelling-house is occupied by two or more qualifying persons as joint tenants the right to buy may be exercised by such one or more of them as may be agreed between them.

Claim to share right to buy with members of family

123.—(1) A qualifying person may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the qualifying dwelling-house as their only or principal home should share the right to buy with him.

(2) He may validly do so in the case of any such member only if—

- (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
- (b) the landlord consents.

(3) Where by such a notice any members of the qualifying person's family are validly required to share the right to buy with him, the right to buy the qualifying dwelling-house belongs to the qualifying person and those members jointly and they shall be treated as joint tenants for the purposes, in relation to that qualifying dwelling-house, of the right to buy.

Landlord's notice admitting or denying right to buy

124.—(1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the qualifying person the landlord shall, unless the notice is withdrawn, serve on the qualifying person within the period specified in subsection (2) a written notice either—

- (a) admitting his right, or
- (b) denying it and stating the reasons why, in the opinion of the landlord, the qualifying person does not have the right to buy.

(2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or periods during which the landlord was the landlord on which the qualifying person's notice under section 122 was served, and eight weeks in any other case.

Landlord's notice of purchase price and other matters

125.—(1) Where a qualifying person has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—

- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
- (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest),

serve on the qualifying person a notice complying with this section.

(2) The notice shall describe the qualifying dwelling-house, shall state the price at which, in the opinion of the landlord, the qualifying person is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—

- (a) the value at the relevant time,
- (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
- (c) the discount to which the qualifying person is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in

section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).

(3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.

(4) Where the notice states provisions which would enable the landlord to recover from the qualifying person—

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).

(4A) The notice shall contain a description of any structural defect known to the landlord affecting the qualifying dwelling-house or the building in which it is situated or any other building over which the qualifying person will have rights under the conveyance or lease.

(5) The notice shall also inform the qualifying person of—

- (a) the effect of sections 125D and 125E(1) and (4) (qualifying person's notice of intention, landlord's notice in default and effect of failure to comply),
- (b) his right under section 128 to have the value of the qualifying dwelling-house at the relevant time determined or re-determined by the district valuer,
- (c) the effect of section 136(2) (change of qualifying person after service of notice under section 125), and
- (d) the effect of sections 140 and 141(1), (2) and (4) (landlord's notices to complete and effect of failure to comply).

Estimates and information about service charges

125A.—(1) A landlord's notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—

- (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and
- (b) the aggregate of those estimated amounts,

and shall contain a statement of the reference period adopted for the purpose of the estimates.

(2) A landlord's notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain—

- (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
- (b) a statement of the effect of—

paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).

(3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—

- (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of those estimated costs and contributions, and
- (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the qualifying person.

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Estimates and information about improvement contributions

125B.—(1) A landlord’s notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—

- (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
- (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).

(2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.

- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
 - (a) the amount (at current prices) of the likely cost of, and of the tenant’s likely contribution in respect of, each item, and
 - (b) the aggregate amounts of those estimated costs and contributions.

Reference period for purposes of ss. 125A and 125B

125C.—(1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—

- (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
- (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.

(2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.

Qualifying person’s notice of intention

125D.—(1) Where a notice under section 125 has been served on a qualifying person, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim.

(2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—

- (a) the service of the notice under section 125, and
- (b) where the qualifying person exercises his right to have the value of the qualifying dwelling-house determined or re-determined by the district valuer, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

Landlord’s notice in default

125E.—(1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the qualifying person a written notice—

- (a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and
- (b) informing him of the effect of this subsection and subsection (4).

(2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the qualifying person extend it (or further extend it).

(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the qualifying person to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the qualifying person does not comply with a notice under this section, the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).

Purchase price

Purchase price

126.—(1) The price payable for a qualifying dwelling-house on a conveyance or grant in pursuance of this Part is—

- (a) the amount which under section 127 is to be taken as its value at the relevant time, less
- (b) the discount to which the purchaser is entitled under this Part.

(2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

Value of qualifying dwelling-house

127.—(1) The value of a qualifying dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—

- (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3),
- (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the qualifying dwelling-house in good internal repair, and
- (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.

(2) For a conveyance the assumptions are—

- (a) that the vendor was selling for an estate in fee simple with vacant possession,
- (b) that neither the qualifying person nor a member of his family residing with him wanted to buy, and
- (c) that the qualifying dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.

(3) For the grant of a lease the assumptions are—

- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6,
- (b) that neither the qualifying person nor a member of his family residing with him wanted to take the lease,
- (c) that the ground rent would not exceed £10 per annum, and

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- (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
 - (a) a qualifying person or, where the qualifying person is a qualifying successor, the person who was the qualifying person before him;
 - (b) where the qualifying person is the former secure tenant, any person who, under the same tenancy, was a secure tenant before him; and
 - (c) where the qualifying person is the former secure tenant, any member of his family who, immediately before the grant of the secure tenancy, was the secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the qualifying person is the former secure tenant whose tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

Determination of value by district valuer

128.—(1) Any question arising under this Part as to the value of a qualifying dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.

(2) A qualifying person may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the qualifying person for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.

- (3) If such proceedings are begun after a previous determination under this section—
 - (a) the qualifying person may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the qualifying dwelling-house at the relevant time to be re-determined, and
 - (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;

and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the qualifying person a notice stating that the requirement is being or has been made.

(4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the qualifying person within four weeks from the service of the qualifying person's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).

(5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the qualifying person a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).

Discount

129.—(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

- (2) The discount is, subject to any order under subsection (2A)—

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- (a) in the case of a house, 32 per cent. plus one per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 60 per cent.;
 - (b) in the case of a flat, 44 per cent. plus two per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 70 per cent.
- (2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—
- (a) the minimum percentage discount,
 - (b) the percentage increase for each complete year of the qualifying period after the first two, or
 - (c) the maximum percentage discount,
- shall be such percentage, higher than that specified in subsection (2) as may be specified in the order.
- (2B) An order—
- (a) may make different provision with respect to different cases or descriptions of case,
 - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
 - (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the qualifying person there were substituted that one of the joint tenants whose substitution will produce the largest discount.

Reduction of discount where previous discount given

- 130.**—(1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.
- (2) A “previous discount” means a discount given before the relevant time—
- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 or 7A of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
 - (aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or
 - (ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord’s share), or
 - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
- (a) to the person or one of the persons exercising the right to buy, or
 - (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
 - (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);

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and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.

(4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—

- (a) by the receipt of a payment determined by reference to the discount, or
- (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
- (c) in any other way,

then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.

(5) An order under this section—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section “qualifying dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

Limits on amount of discount

131.—(1) Unless the landlord otherwise agrees—

- (a) the discount shall not reduce the price below the amount which, in accordance with Schedule 5A, is to be taken as representing the costs incurred by the landlord in respect of the qualifying dwelling-house and is to be treated as relevant for the purposes of this section;
- (b) if the price before discount is below that amount there shall be no discount.

(2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.

(3) An order under this section may make different provision for different cases or descriptions of case, including different provision for different areas.

(4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Change of qualifying person or landlord after service of notice claiming right to buy

Change of qualifying person after notice claiming right to buy

136.—(1) Where, after a qualifying person has given a notice claiming the right to buy, a qualifying successor becomes the qualifying person in relation to the qualifying dwelling-house, the qualifying successor shall be in the same position as if the notice had been given by him and he had been the qualifying person at the time it was given.

(2) If a notice under section 125 (landlord’s notice of purchase price and other matters) has been served on the former qualifying person then, whether or not the former qualifying person has served a notice under subsection (1) of section 125D (qualifying person’s notice of intention), the new qualifying person shall serve a notice under that subsection within the period of twelve weeks beginning with whichever of the following is the later—

- (a) his becoming the new qualifying person, and

- (b) where the right to have the value of the qualifying dwelling-house determined or re-determined by the district valuer is or has been exercised by him or the former qualifying person, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

(6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new qualifying person.

(7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the qualifying person.

Change of landlord after notice claiming right to buy

137.—(1) Where, other than in a case to which section 171D(1)(a) or section 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies), the interest of the landlord in the qualifying dwelling-house passes from the landlord to another person after a qualifying person has given a notice claiming to exercise the right to buy, all parties shall, subject to subsection (2), be in the same position as if the other person had become the landlord before the notice was given and had been given that notice and any further notice given by the qualifying person to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
 - (a) the interest of the disponee in the qualifying dwelling-house after the disposal differs from that of the disponor before the disposal, or
 - (b) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.

Completion of purchase in pursuance of right to buy

Duty of landlord to convey freehold or grant lease

138.—(1) Where a qualifying person has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant have been agreed or determined, the landlord shall make to the qualifying person—

- (a) if the qualifying dwelling-house is a house and the landlord owns the freehold, a grant of the qualifying dwelling-house for an estate in fee simple absolute, or
- (b) if the landlord does not own the freehold or if the qualifying dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the qualifying dwelling-house,

in accordance with the following provisions of this Part.

(2) If the qualifying person has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

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Terms and effect of conveyance or grant

139.—(1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.

(2) The tenancy held by the qualifying person comes to an end on the grant to him of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part; and if there is a subtenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

Landlord's first notice to complete

140.—(1) The landlord may, subject to the provisions of this section, serve on the qualifying person at any time a written notice requiring him—

- (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
- (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,

and informing the qualifying person of the effect of this section and of section 141(1), (2) and (4) (landlord's second notice to complete).

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) A notice under this section shall not be served earlier than 12 months after the service of the landlord's notice under section 125 (notice of purchase price and other matters).

(4) A notice under this section shall not be served if—

- (a) a requirement for the determination or re-determination of the value of the qualifying dwelling-house by the district valuer has not been complied with,
- (b) proceedings for the determination of any other relevant matter have not been disposed of, or
- (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the qualifying person has not been agreed in writing or determined.

(5) In this section "relevant matters" means matters relating to the grant.

Landlord's second notice to complete

141.—(1) If the qualifying person does not comply with a notice under section 140 (landlord's first notice to complete), the landlord may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice, and
- (b) informing him of the effect of this section in the event of his failing to comply.

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the qualifying person extend it (or further extend it).

(4) If the qualifying person does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).

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(5) If a notice under this section has been served on the qualifying person and by virtue of section 138(2) (failure of qualifying person to pay rent, etc.) the landlord is not bound to complete, the qualifying person shall be deemed not to comply with the notice.

Qualifying person's sanction for landlord's delay

Qualifying person's notices of delay

153A.—(1) Where a qualifying person 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 qualifying person'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;
- (e) where the qualifying person considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy;

and where an initial notice of delay specifies either of the cases in paragraphs (a) and (b), 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 qualifying person 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 qualifying person a counter notice in either of the following circumstances—

- (a) if the initial notice specifies either of the cases in paragraphs (a) and (b) of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, or section 125, 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 qualifying person expeditiously to exercise his right to buy 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 qualifying person 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

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made by the qualifying person 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 qualifying person has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the qualifying person has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the qualifying person may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.

Payments of rent attributable to purchase price etc.

153B.—(1) Where a qualifying person 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 qualifying person the grant required by section 138;
- (d) the date on which the qualifying person withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy; and
- (e) the date on which the qualifying person ceases to be entitled to exercise the right to buy.

(2) Except where this section ceases to apply on a date determined under paragraph (d) or (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 council tax, 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 qualifying person 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 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 qualifying person 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.

Registration of title

Registration of title

154.—(1) Where the landlord’s title to the qualifying dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to—

- (a) the conveyance of the freehold or the grant of a lease in pursuance of this Part,

whether or not the qualifying dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of more than 21 years.

(2) Where the landlord’s title to the qualifying dwelling-house is not registered, the landlord shall give the qualifying person a certificate stating that the landlord is entitled to convey the freehold or

make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.

(3) Where the landlord's interest in the qualifying dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—

- (a) where it is registered, the title number;
- (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord's lease.

(4) A certificate under subsection (2) shall be—

- (a) in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.

(6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this Part notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.

(7) Section 70(1)(k) of the Land Registration Act 1925 (overriding interests) shall not apply to a lease granted in pursuance of this Part.

Provisions affecting future disposals

Repayment of discount on early disposal

155.—(1) A conveyance of the freehold or grant of a lease in pursuance of this Part may, at the discretion of the landlord, contain (unless there is no discount) a covenant binding on the qualifying person and his successors in title to the following effect, but not one the effect of which would be more onerous.

(2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the qualifying person was entitled, reduced by one third for each complete year which has elapsed after the conveyance or grant and before the disposal.

(3A) Where a qualifying person has served on his landlord an operative notice of delay, as defined in section 153A—

- (a) the three years referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section.

Liability to repay is a charge on the premises

156.—(1) The liability that may arise under the covenant imposed by virtue of section 155 is a charge on the qualifying dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

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(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the qualifying person by an approved lending institution for the purpose of enabling him to exercise the right to buy.

(2A) The following, namely—

- (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
- (b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

- (a) is made to the qualifying person by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

(3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

(3A) The covenant imposed by virtue of section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the qualifying person, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

(4) The approved lending institutions for the purposes of this section are—

- the Corporation,
- a building society,
- a bank,
- a trustee savings bank,
- an insurance company,
- a friendly society,

and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.

(4A) The approved purposes for the purpose of this section are—

- (b) to enable the qualifying person to defray, or to defray on his behalf, any of the following—
 - (i) the cost of any works to the qualifying dwelling-house,
 - (ii) any service charges payable in respect of the qualifying dwelling-house for works, whether or not to the qualifying dwelling-house, or
 - (iii) any service charge or other amount payable in respect of the qualifying dwelling-house for insurance, whether or not to the qualifying dwelling-house, and
- (c) to enable the qualifying person to discharge, or to discharge on his behalf, any of the following—

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- (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
- (ii) any arrears of interest on such an advance or further advance, and
- (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

(5) An order under subsection (4)—

- (a) shall be made by statutory instrument, and
- (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

(6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.

Restriction on disposal of qualifying dwelling-houses in National Parks, etc.

157.—(1) Where in pursuance of this Part a conveyance or grant is executed by a housing association (“the landlord”) of a qualifying dwelling-house situated in—

- (a) a National Park,
- (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
- (c) an area designated by order of the Secretary of State as a rural area,

the conveyance or grant may contain a covenant limiting the freedom of the qualifying person (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the qualifying dwelling-house in the manner specified below.

(2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the qualifying person or a successor in title of his,

- (a) there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3), 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 qualifying dwelling-house.

(3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent or, in the case of a disposal by way of tenancy or licence, preceding the disposal—

- (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
- (b) had his only or principal home in such a region;

or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

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(4) If the Corporation consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—

- (a) the qualifying person (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the qualifying dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
- (b) the landlord has refused the offer or has failed to accept it within one month after it was made.

(5) The consent of the Corporation under subsection (4) may be given subject to such conditions as the Corporation thinks fit.

(6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void 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.

(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.

(7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application thereof had been made under section 58 of the Land Registration Act 1925.

(8) An order under this section—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Consideration for reconveyance or surrender under s. 157.

158.—(1) The consideration for the offer by a qualifying person (or his successor in title or a person deriving title under him or his successor) referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord shall be such amount as may be agreed between the parties or determined by the district valuer as being the amount which is to be taken as the value of the qualifying dwelling-house at the time the offer is made.

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—

(a) a covenant imposed by virtue of section 155 (repayment of discount on early disposal), would be discharged by the vendor.

(3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the qualifying dwelling-house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer to reconvey or surrender.

Relevant disposals

159.—(1) A disposal, whether of the whole or part of the qualifying dwelling-house, is a relevant disposal for the purposes of this Part if it is—

- (a) a further conveyance of the freehold or an assignment of the lease, or
 - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
 - (b) that any option to terminate a lease or sub-lease is not exercised.

Exempted disposals

160.—(1) A disposal is an exempted disposal for the purposes of this Part if—

- (a) it is a disposal of the whole of the qualifying dwelling-house and a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
 - (b) it is a vesting of the whole of the qualifying dwelling-house in a person taking under a will or on an intestacy;
 - (c) it is a disposal of the whole of the qualifying dwelling-house in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
 - (d) it is a compulsory disposal (as defined in section 161); or
 - (e) it is a disposal of property consisting of land included in the qualifying dwelling-house by virtue of section 184 (land let with or used for the purposes of the qualifying dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person, or one of the persons, by whom the disposal is made,
 - (b) he is the spouse or a former spouse of that person, or one of those persons, or
 - (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.

Meaning of “compulsory disposal”

161. In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

Exempted disposals which end liability under covenants

162. Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1) (d) or (e) (compulsory disposals or disposals of land let with or used for purposes of qualifying dwelling-house)—

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- (a) a covenant imposed by virtue of section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of qualifying dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

Treatment of options

163.—(1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.

(2) For the purposes of section 157(2) (requirement of consent to disposal of qualifying dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

Preservation of right to buy on disposal to private sector landlord

Cases in which right to buy is preserved

171A.—(1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).

(2) In this Part—

- (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply,
- (b) “qualifying disposal” means a disposal in relation to which this section applies, and
- (c) the “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).

(3) This section does not apply—

- (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
- (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.

(4) Orders under subsection (3)(b)—

- (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Extent of preserved right: qualifying persons and dwelling-houses

171B.—(1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home subject to the following provisions of this Part.

(2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.

(3) The following are the persons to whom this section applies—

- (a) the former secure tenant, or in the case of a joint tenancy, each of them;
- (b) a qualifying successor as defined in subsection (4); and
- (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.

(4) The following are qualifying successors for this purpose—

(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;

(b) a person who becomes the tenant of a dwelling-house in pursuance of—

- (i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or
- (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 transferring the tenancy,

in place of a person who had the preserved right to buy in relation to that dwelling-house.

(5) The relevant dwelling-house is in the first instance—

- (a) in relation to a person within paragraph (a) of subsection (3), the dwelling-house which was the subject of the qualifying disposal;
- (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he acquired the assured tenancy, became the assignee of the assured tenancy or became the tenant, as mentioned in subsection (4)(a),(aa) or (b);
- (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.

(6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house, or where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For the purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

Subsequent dealings: disposal of landlord’s interest in qualifying dwelling-house

171D.—(1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—

- (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or

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- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),

in which case the right to buy ceases to be preserved.

(2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.

(3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.

(4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.

Subsequent dealings: termination of landlord's interest in qualifying dwelling-house

171E.—(1) On the termination of the landlord's interest in the qualifying dwelling-house—

- (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
- (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),

the right to buy ceases to be preserved.

(2) The termination of the landlord's interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord's interest together with a superior interest, does not affect the preserved right to buy, unless—

- (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),

in which case the right to buy ceases to be preserved.

(3) Where the termination of the landlord's interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.

Subsequent dealings: transfer of qualifying person to alternative accommodation

171F. The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 or on Ground 9 in Schedule 2 to the Housing Act 1988 (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—
 - (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
 - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or

- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).

Land registration and related matters

171G. Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.

Disposal after notice claiming to exercise right to buy, etc.

171H.—(1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy and before the completion of the exercise of that right the dwelling-house is the subject of—

- (a) a qualifying disposal, or
- (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the disponee had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

(2) If the circumstances after the disposal differ in any material respect, as for example where—

- (a) the interest of the disponee in the dwelling-house after the disposal differs from that of the disponor before the disposal, or
- (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.

Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part

Exclusion of leases where landlord is housing association and freeholder is a charity

172.—(1) Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

Leases granted under this Part to be treated as long leases at a low rent

174. For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

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- (a) a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less.

Determination of price payable

175.—(1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leashold Reform Act 1967, the price payable for the qualifying dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that the circumstances specified in that section do not apply.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

(5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

Supplementary provisions

Notices

176.—(3) A notice under this Part may be served by sending it by post.

(4) Where the landlord is a housing association, a notice to be served by the qualifying person on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the qualifying person usually deals.

Costs

178. An agreement between the landlord and qualifying person claiming to exercise the right to buy is void in so far as it purports to oblige the qualifying person to bear any part of the costs incurred by the landlord in connection with the qualifying person's exercise of that right.

Provisions restricting right to buy, etc. of no effect

179.—(1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—

- (a) the grant of a lease in pursuance of the preserved right to buy, or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted,

or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.

Statutory declarations

180. A landlord may if he thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

Jurisdiction of county court

181.—(1) A county court has jurisdiction—

- (a) to entertain any proceedings brought under this Part, and
- (b) to determine any question arising under this Part,

but subject to sections 128 and 158 (which provide for matters of valuation to be determined by the district valuer).

(2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.

(4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—

- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
- (b) for the conduct of proceedings in private.

(5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Meaning of “house”, “flat” and “dwelling-house”

183.—(1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.

(2) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—

- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
- (b) where a building is divided vertically, the units into which it is divided may be houses;
- (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.

(3) A dwelling-house which is not a house is a flat.

Land let with or used for purposes of dwelling-house

184.—(1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.

(2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—

- (a) the qualifying person, by written notice served on the landlord at any time before he exercises the right to buy requires the land to be included in the dwelling-house, and
- (b) it is reasonable in all the circumstances for the land to be so included.

(3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the qualifying person exercises the right to buy.

(4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable

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after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

Meaning of “secure tenancy” and “secure tenant”

185.—(1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.

(2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—

- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
- (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

Members of a person’s family

186.—(1) A person is a member of another’s family within the meaning of this Part if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(2) For the purposes of subsection (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his child, and
- (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

Minor definitions

187. In this Part—

“improvement” means in relation to a dwelling-house any alteration in, or addition to, the dwelling-house and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to the dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration,

and shall be similarly construed in relation to any other building or land;

“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);

“long tenancy” means—

- (a) a long tenancy within the meaning of Part IV,
- (b) or

(c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly.

Index of defined expressions: Part V

188. The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

assured tenancy	section 622
bank	section 622
building society	section 622
cemetery	section 622
charity	section 622
compulsory disposal	section 161
co-operative housing association	section 5(2)
the Corporation	section 6A
disposal and instrument effecting disposal (in Schedule 9A)	paragraph 10 of that Schedule
district valuer	section 622
dwelling-house	sections 183 and 184
exempted disposal	section 160
family (member of)	section 186
flat	section 183
friendly society	section 622
former landlord and former secure tenant (in relation to a qualifying disposal)	section 171A(2)(c)
house	section 183
housing association	section 5(1)
improvement	section 187
improvement contribution	section 187
incumbrances	paragraph 7 of Schedule 6
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)

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prescribed	section 614
preserved right to buy	section 171A(2)(a)
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
qualifying disposal (in relation to the preserved right to buy)	section 171A(2)(b)
qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)	section 171B(1)
qualifying successor	section 171B(4)
reference period (for purposes of s. 125A or 125B)	section 125C
registered (in relation to a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 and see section 452(3)
relevant time	section 122(2)
right to buy	section 118(1)
secure tenancy and secure tenant	sections 79 and 185
service charge	section 621A
tenant's incumbrance	paragraph 7 of Schedule 6
trustee savings bank	section 622
urban development corporation	section 4(d)
