

SCHEDULE 5

Section 120.

EXCEPTIONS TO THE RIGHT TO BUY

Certain housing associations

2. The right to buy does not arise if the landlord is a co-operative housing association.

Landlord with insufficient interest in the property

4. The right to buy does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of this Part for—
- (a) where the qualifying dwelling-house is a house, a term exceeding 21 years, or
 - (b) where the qualifying dwelling-house is a flat, a term of not less than 50 years,
- commencing, in either case, with the date on which the qualifying person's notice claiming to exercise the right to buy is served.

Qualifying dwelling-houses let in connection with employment

- 5.—(1) The right to buy does not arise if the qualifying dwelling-house—
- (a) forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
 - (b) was let to the qualifying person or a predecessor in title of his in consequence of the qualifying person or predecessor being in the employment of
- the landlord or of—
- a local authority,
 - a new town corporation,
 - a housing action trust,
 - the Development Board for Rural Wales,
 - an urban development corporation, or
 - the governors of an aided school.

(2) In sub-paragraph (1)(a) “housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes.

Certain qualifying dwelling-houses for the disabled

7. The right to buy does not arise if the qualifying dwelling-house has features which are substantially different from those of ordinary dwelling-houses and are designed to make it suitable for occupation by physically disabled persons, and—
- (a) it is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by physically disabled persons, and
 - (b) a social service or special facilities are provided in close proximity to the group of dwelling-houses wholly or partly for the purpose of assisting those persons.

- 9.—(1) The right to buy does not arise if—

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- (a) the qualifying dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who are suffering or have suffered from a mental disorder, and
 - (b) a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.
- (2) In sub-paragraph (1)(a) “mental disorder” has the same meaning as in the Mental Health Act 1983.

Certain qualifying dwelling-houses for persons of pensionable age

10.—(1) The right to buy does not arise if the qualifying dwelling-house is one of a group of dwelling-houses—

- (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by elderly persons, and
- (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, or for occupation by such persons and physically disabled persons,

and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.

(2) The facilities referred to above are facilities which consist of or include—

- (a) the services of a resident warden, or
- (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.

11.—(1) The right to buy does not arise if the qualifying dwelling-house—

- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and
- (b) was let to the qualifying person or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the qualifying person or another person).

(2) In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the qualifying person or a predecessor in title of his.

(3) Notwithstanding anything in section 181 (jurisdiction of county court), any question arising under this paragraph shall be determined as follows.

(4) If an application for the purpose is made by the qualifying person to the Secretary of State before the end of the period of 56 days beginning with the service of the landlord’s notice under section 124, the question shall be determined by the Secretary of State.

(5) If no such application is so made, the question shall be deemed to have been determined in favour of the landlord.

(6) This paragraph does not apply unless the qualifying dwelling-house concerned was first let before 1st January 1990.

Qualifying dwelling-houses held on Crown tenancies

12.—(1) The right to buy does not arise if the qualifying dwelling-house is held by the landlord on a tenancy from the Crown, unless—

- (a) the landlord is entitled to grant a lease in pursuance of this Part without the concurrence of the appropriate authority, or

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- (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.
- (2) In this paragraph “tenancy from the Crown” means a tenancy of land in which there is a Crown interest superior to the tenancy, and “Crown interest” and “appropriate authority” mean respectively—
- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
 - (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
 - (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
 - (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.
- (3) Section 179(1) (which renders ineffective certain provisions restricting the grant of leases under this Part) shall be disregarded for the purposes of sub-paragraph (1)(a).