
STATUTORY INSTRUMENTS

2009 No. 601

HOUSING, ENGLAND

The Housing (Purchase of Equitable Interests) (England) Regulations 2009

<i>Made</i>	- - - -	<i>10th March 2009</i>
<i>Laid before Parliament</i>		<i>13th March 2009</i>
<i>Coming into force</i>	- -	<i>6th April 2009</i>

The Secretary of State, in exercise of the powers conferred by section 450D of the Housing Act 1985⁽¹⁾, makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Housing (Purchase of Equitable Interests) (England) Regulations 2009 and shall come into force on 6th April 2009.

(2) These Regulations apply in relation to England only.

Power to purchase an equitable interest to assist a tenant to meet service charge payments

2.—(1) A housing authority (“the landlord”) may with the agreement of the tenant purchase an equitable interest in a flat where the conditions in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1) are that—

- (a) a long lease of the flat was granted or assigned by the landlord or another housing authority;
- (b) the tenant is liable under the terms of the lease to pay service charges to the landlord in respect of repairs or improvement contributions (whether to the flat, the building in which it is situated or any other building or land); and
- (c) the purpose of the purchase is to assist the tenant to meet some or all of the service charge payments.

⁽¹⁾ 1985 c. 68. Section 450D was inserted by section 309 of the Housing and Regeneration Act 2008 (c.17). The power to make regulations under section 450D(1) is conferred on the “appropriate national authority”. By virtue of section 450D(10), the appropriate national authority is, in relation to England, the Secretary of State and, in relation to Wales, the Welsh Ministers.

Exercise of power to purchase

3. The landlord may make a purchase under regulation 2 notwithstanding that the lease concerned was granted or assigned, or the service charge concerned became payable, before the coming into force of these Regulations.

Purchase price

4.—(1) The cost of the equitable interest purchased (“purchase price”) shall 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, but this is subject to paragraph (2).

(2) Where, in accordance with a term agreed as mentioned in regulation 5, the tenant is liable to pay the landlord’s administrative expenses, the purchase price may, at the option of the landlord, be reduced by the amount of those expenses.

Administrative expenses

5. It may be a term of the agreement for a purchase under regulation 2 that the tenant be liable for the administrative expenses of the landlord in connection with the purchase.

Signed by authority of the Secretary of State for Communities and Local Government

Iain Wright
Parliamentary Under Secretary of State
Department for Communities and Local
Government

10th March 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give a housing authority which is a landlord of a flat under a long lease a power to purchase an equitable interest in the flat in order to assist the tenant to meet some or all of the costs of service charge payments payable by the tenant to the landlord in respect of repairs and improvement contributions. The agreement of the tenant is required. The terms “housing authority” and “long lease” are defined in section 458 of the Housing Act 1985. Section 450D of that Act (under which these Regulations are made) modifies the definition of “housing authority”, and defines “improvement contribution” and “repairs”.

Regulation 2 sets out the conditions which must be met before the power to purchase an equitable interest can be exercised.

Regulation 3 provides that the landlord may exercise the power conferred by regulation 2 whenever the lease was granted or assigned, and whenever the service charge became payable.

Regulation 4 requires the landlord to pay for the equitable interest purchased by reducing or cancelling (as the case may be) the service charge payment for which the tenant is liable. Where the landlord and the tenant have agreed that the tenant will meet the landlord’s administrative expenses in connection with the purchase, the landlord may deduct these expenses from the purchase price.

Regulation 5 allows the landlord to require the tenant pay the landlord’s administrative expenses in connection with a purchase under regulation 2.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However the proposed provision was included in a consultation document issued in August 2007 on proposed changes to the Right to Buy scheme, to which a general impact assessment regarding these changes was attached.