

EXPLANATORY MEMORANDUM TO
THE HOUSING (RIGHT TO BUY)(LIMIT ON DISCOUNT)(ENGLAND)
ORDER 2013

2013 No. 677

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 A person exercising the right to buy a dwelling-house under Part V of the Housing Act 1985 may be entitled to a discount equal to a percentage of the price before discount. This Order prescribes the maximum discount that person may receive as £100,000 where the dwelling-house lies within the area of a London authority. The Order also revokes the Housing (Right to Buy) (Limits on Discount) Order 2012 in so far as it applies to dwelling-houses situated in the areas of London authorities.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 This Order comes into force less than 21 days from the date of laying because of the need to avoid any confusion that may arise due to the period of time between the making of the Order and the date it takes effect.

3.2 There have been misunderstandings previously concerning the levels of discounts eligible tenants are entitled to receive under the Right to Buy and when the right to any increased discount may be exercised. Any delay in bringing into force the increased discount may lead to further confusion and may cause eligible tenants to defer or postpone exercising their Right to Buy.

3.3 The housing market is very sensitive to announcements and policy changes regarding housing issues. The Department wishes to avoid any misinformation which could arise from a delay in implementing the increased discount.

4. **Legislative Context**

4.1 A person exercising the right to buy a dwelling-house under Part V of the Housing Act 1985 (the Act) may be entitled, under sections 129 to 131 of

and Schedule 4 to the Act, to a discount equal to a percentage of the price before discount.

4.2 The discount may not reduce the price by more than such sum as the Secretary of State may by order prescribe nor may it reduce the price below an amount representing the costs incurred by the landlord over a specified period of time in respect of the dwelling-house in accordance with a determination by the Secretary of State made under section 131 to the Act.

4.3 This Order prescribes the maximum discount as £100,000 where the dwelling-house lies within the area of a London authority.

4.4 The maximum discount prescribed by this Order applies to applications for the Right to Buy made by notice under section 122 of the Act served after the date this Order came into force and to applications where the notice under section 122 was served before the date this Order came into force but the conveyance or grant under Part V of the Act has not taken place on or before the date this Order came into force.

4.5 The Order also revokes the Housing (Right to Buy) (Limits on Discount) Order 2012 in so far as it applies to dwelling-houses situated in the areas of London authorities.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This Order amends the maximum discount limit for Right to Buy to £100,000 for properties situated within the 33 London authorities. The Order amends the 2012 Order which prescribes a maximum discount of £75,000 across England.

7.2 The Right to Buy scheme was introduced in 1980 and gives qualifying social tenants the opportunity to buy their rented home at a discount. The scheme is open to secure tenants of local authorities and non-charitable housing associations. It is also open to those assured tenants of housing associations who have transferred with their homes from a local authority as part of a stock transfer – this is known as the Preserved Right to Buy. To date, more than 1.9 million homes have been sold under the Right to Buy.

7.3 To qualify for the Right to Buy, tenants must have spent at least 5 years as public sector tenants. Once eligible, the discount rates for houses are 35 per cent of the property's value plus 1 per cent for each year beyond the

qualifying period up to a maximum of 60 per cent. On flats the discount ranges from 50 percent plus 2 per cent for each year beyond the qualifying period up to a maximum of 70 per cent.

7.4 But the maximum discount which a tenant can receive is limited by secondary legislation. The 2012 Discount Order introduced a maximum national discount of £75,000 across England, replacing the previous lower regional discounts.

7.5 The Government was concerned that the low level of the regional discounts meant that social tenants were unable to achieve their aspiration for home ownership. And in response, increased discounts nationally to £75,000 in April 2012.

7.6 However, the unique nature of the housing market in London and the level of house prices there have meant that, despite the increased discount, some qualifying tenants in these areas are still finding it difficult to take up their Right to Buy. The new discount of £100,000 will allow a greater number of these tenants to meet their aspirations for home ownership, support social mobility and help create and sustain mixed communities. The increase in the discount meets the undertaking the Government made in the Explanatory Memorandum which accompanied the 2012 Discount Order, to keep the impact of the Order under continuous review to ensure it was working effectively.

7.7 The terms of the Right to Buy scheme are otherwise unchanged.

7.8 Receipts from additional Right to Buy sales will be used to provide new affordable homes for rent.

8. Consultation outcome

8.1 The Department consulted in December 2011 to January 2012 regarding the increase of the maximum Right to Buy discount. The Right to Buy consultation and the Government's response can be accessed here: <https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2>

8.2 It was considered that a further consultation was not needed because the relevant considerations concerning any increase in the maximum discount for London authorities have not changed substantially since the consultation in January 2012.

9. Guidance

9.1 Local Authorities and Registered Providers will be notified that the Order has come into force. These authorities have a statutory duty under sections 121A and 121B of the Act to advise their tenants of changes to the Right to Buy discount. The Department for Communities and Local

Government will also publicise the changes and issue information and guidance for tenants and social landlords.

10. Impact

10.1 There is no impact on charities or voluntary bodies. The Impact Assessment which accompanied the original consultation paper (<https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2>) identified three possible areas of impact on housing associations that sell properties under the Preserved Right to Buy – i) cost of one for one replacement, ii) cost of administering sales, and iii) possible impact upon the business due to loss of assets. Our analysis at the time, drawing on responses to the consultation, indicated that these impacts would be minimal. We do not believe that this change will alter our original assessment.

10.2 The impact on the public sector is that social landlords in London are likely to be required to process more Right to Buy applications, with implications for additional administrative costs. The Government has set flat allowances for London and the rest of England which will adequately compensate London Boroughs for any increases in applications as a result of this Order.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The increase in the Right to Buy discount will allow more eligible social tenants in London to take up the opportunity to own their home if they wish to do so. The extent to which Right to Buy is taken up depends on a large number of mainly external factors such as the general economic climate. The Department for Communities and Local Government will therefore continue to collect and publish figures quarterly on the numbers of Right to Buy sales. There will be a continuous ongoing review to assess the impact of both this Order and the 2012 Discount Order.

13. Contact

Diana Fergus at the Department for Communities and Local Government (tel: 0303 444 3798 or email: Diana.fergus@communities.gsi.gov.uk) can answer any queries regarding the instrument.