



# Housing Act 1988

## 1988 CHAPTER 50

### PART I

#### RENTED ACCOMMODATION

### CHAPTER I

#### ASSURED TENANCIES

*Meaning of assured tenancy etc.*

## **1 Assured tenancies**

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as—
  - (a) the tenant or, as the case may be, each of the joint tenants is an individual; and
  - (b) the tenant or, as the case may be, at least one of the joint tenants occupies the dwelling-house as his only or principal home; and
  - (c) the tenancy is not one which, by virtue of subsection (2) or subsection (6) below, cannot be an assured tenancy.
- (2) Subject to subsection (3) below, if and so long as a tenancy falls within any paragraph in Part I of Schedule 1 to this Act, it cannot be an assured tenancy; and in that Schedule—
  - (a) “tenancy” means a tenancy under which a dwelling-house is let as a separate dwelling;
  - (b) Part II has effect for determining the rateable value of a dwelling-house for the purposes of Part I; and
  - (c) Part III has effect for supplementing paragraph 10 in Part I.
- (3) Except as provided in Chapter V below, at the commencement of this Act, a tenancy—
  - (a) under which a dwelling-house was then let as a separate dwelling, and

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- (b) which immediately before that commencement was an assured tenancy for the purposes of sections 56 to 58 of the Housing Act 1980 (tenancies granted by approved bodies),

shall become an assured tenancy for the purposes of this Act.

- (4) In relation to an assured tenancy falling within subsection (3) above—
  - (a) Part I of Schedule 1 to this Act shall have effect, subject to subsection (5) below, as if it consisted only of paragraphs 11 and 12; and
  - (b) sections 56 to 58 of the Housing Act 1980 (and Schedule 5 to that Act) shall not apply after the commencement of this Act.
- (5) In any case where—
  - (a) immediately before the commencement of this Act the landlord under a tenancy is a fully mutual housing association, and
  - (b) at the commencement of this Act the tenancy becomes an assured tenancy by virtue of subsection (3) above,

then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy), paragraph 12 of Schedule 1 to this Act shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).

- (6) If, in pursuance of its duty under—
  - (a) section 63 of the Housing Act 1985 (duty to house pending inquiries in case of apparent priority need),
  - (b) section 65(3) of that Act (duty to house temporarily person found to have priority need but to have become homeless intentionally), or
  - (c) section 68(1) of that Act (duty to house pending determination whether conditions for referral of application are satisfied),

a local housing authority have made arrangements with another person to provide accommodation, a tenancy granted by that other person in pursuance of the arrangements to a person specified by the authority cannot be an assured tenancy before the expiry of the period of twelve months beginning with the date specified in subsection (7) below unless, before the expiry of that period, the tenant is notified by the landlord (or, in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured tenancy.

- (7) The date referred to in subsection (6) above is the date on which the tenant received the notification required by section 64(1) of the Housing Act 1985 (notification of decision on question of homelessness or threatened homelessness) or, if he received a notification under section 68(3) of that Act (notification of which authority has duty to house), the date on which he received that notification.

## **2 Letting of a dwelling-house together with other land**

- (1) If, under a tenancy, a dwelling-house is let together with other land, then, for the purposes of this Part of this Act,—
  - (a) if and so long as the main purpose of the letting is the provision of a home for the tenant or, where there are joint tenants, at least one of them, the other land shall be treated as part of the dwelling-house; and
  - (b) if and so long as the main purpose of the letting is not as mentioned in paragraph (a) above, the tenancy shall be treated as not being one under which a dwelling-house is let as a separate dwelling.

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- (2) Nothing in subsection (1) above affects any question whether a tenancy is precluded from being an assured tenancy by virtue of any provision of Schedule 1 to this Act.

### **3 Tenant sharing accommodation with persons other than landlord**

- (1) Where a tenant has the exclusive occupation of any accommodation (in this section referred to as “the separate accommodation”) and—
- (a) the terms as between the tenant and his landlord on which he holds the separate accommodation include the use of other accommodation (in this section referred to as “the shared accommodation”) in common with another person or other persons, not being or including the landlord, and
  - (b) by reason only of the circumstances mentioned in paragraph (a) above, the separate accommodation would not, apart from this section, be a dwelling-house let on an assured tenancy,

the separate accommodation shall be deemed to be a dwelling-house let on an assured tenancy and the following provisions of this section shall have effect.

- (2) For the avoidance of doubt it is hereby declared that where, for the purpose of determining the rateable value of the separate accommodation, it is necessary to make an apportionment under Part II of Schedule 1 to this Act, regard is to be had to the circumstances mentioned in subsection (1)(a) above.
- (3) While the tenant is in possession of the separate accommodation, any term of the tenancy terminating or modifying, or providing for the termination or modification of, his right to the use of any of the shared accommodation which is living accommodation shall be of no effect.
- (4) Where the terms of the tenancy are such that, at any time during the tenancy, the persons in common with whom the tenant is entitled to the use of the shared accommodation could be varied or their number could be increased, nothing in subsection (3) above shall prevent those terms from having effect so far as they relate to any such variation or increase.
- (5) In this section “living accommodation” means accommodation of such a nature that the fact that it constitutes or is included in the shared accommodation is sufficient, apart from this section, to prevent the tenancy from constituting an assured tenancy of a dwelling-house.

### **4 Certain sublettings not to exclude any part of sub-lessor’s premises from assured tenancy**

- (1) Where the tenant of a dwelling-house has sub-let a part but not the whole of the dwelling-house, then, as against his landlord or any superior landlord, no part of the dwelling-house shall be treated as excluded from being a dwelling-house let on an assured tenancy by reason only that the terms on which any person claiming under the tenant holds any part of the dwelling-house include the use of accommodation in common with other persons.
- (2) Nothing in this section affects the rights against, and liabilities to, each other of the tenant and any person claiming under him, or of any two such persons.

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## *Security of tenure*

### **5 Security of tenure**

(1) An assured tenancy cannot be brought to an end by the landlord except by obtaining an order of the court in accordance with the following provisions of this Chapter or Chapter II below or, in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power and, accordingly, the service by the landlord of a notice to quit shall be of no effect in relation to a periodic assured tenancy.

(2) If an assured tenancy which is a fixed term tenancy comes to an end otherwise than by virtue of—

- (a) an order of the court, or
- (b) a surrender or other action on the part of the tenant,

then, subject to section 7 and Chapter II below, the tenant shall be entitled to remain in possession of the dwelling-house let under that tenancy and, subject to subsection (4) below, his right to possession shall depend upon a periodic tenancy arising by virtue of this section.

(3) The periodic tenancy referred to in subsection (2) above is one—

- (a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;
- (b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;
- (c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;
- (d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and
- (e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy.

(4) The periodic tenancy referred to in subsection (2) above shall not arise if, on the coming to an end of the fixed term tenancy, the tenant is entitled, by virtue of the grant of another tenancy, to possession of the same or substantially the same dwelling-house as was let to him under the fixed term tenancy.

(5) If, on or before the date on which a tenancy is entered into or is deemed to have been granted as mentioned in subsection (3)(b) above, the person who is to be the tenant under that tenancy—

- (a) enters into an obligation to do any act which (apart from this subsection) will cause the tenancy to come to an end at a time when it is an assured tenancy, or
- (b) executes, signs or gives any surrender, notice to quit or other document which (apart from this subsection) has the effect of bringing the tenancy to an end at a time when it is an assured tenancy,

the obligation referred to in paragraph (a) above shall not be enforceable or, as the case may be, the surrender, notice to quit or other document referred to in paragraph (b) above shall be of no effect.

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- (6) If, by virtue of any provision of this Part of this Act, Part I of Schedule 1 to this Act has effect in relation to a fixed term tenancy as if it consisted only of paragraphs 11 and 12, that Part shall have the like effect in relation to any periodic tenancy which arises by virtue of this section on the coming to an end of the fixed term tenancy.
- (7) Any reference in this Part of this Act to a statutory periodic tenancy is a reference to a periodic tenancy arising by virtue of this section.

## **6 Fixing of terms of statutory periodic tenancy**

- (1) In this section, in relation to a statutory periodic tenancy,—
  - (a) “the former tenancy” means the fixed term tenancy on the coming to an end of which the statutory periodic tenancy arises; and
  - (b) “the implied terms” means the terms of the tenancy which have effect by virtue of section 5(3)(e) above, other than terms as to the amount of the rent;but nothing in the following provisions of this section applies to a statutory periodic tenancy at a time when, by virtue of paragraph 11 or paragraph 12 in Part 1 of Schedule 1 to this Act, it cannot be an assured tenancy.
- (2) Not later than the first anniversary of the day on which the former tenancy came to an end, the landlord may serve on the tenant, or the tenant may serve on the landlord, a notice in the prescribed form proposing terms of the statutory periodic tenancy different from the implied terms and, if the landlord or the tenant considers it appropriate, proposing an adjustment of the amount of the rent to take account of the proposed terms.
- (3) Where a notice has been served under subsection (2) above,—
  - (a) within the period of three months beginning on the date on which the notice was served on him, the landlord or the tenant, as the case may be, may, by an application in the prescribed form, refer the notice to a rent assessment committee under subsection (4) below; and
  - (b) if the notice is not so referred, then, with effect from such date, not falling within the period referred to in paragraph (a) above, as may be specified in the notice, the terms proposed in the notice shall become terms of the tenancy in substitution for any of the implied terms dealing with the same subject matter and the amount of the rent shall be varied in accordance with any adjustment so proposed.
- (4) Where a notice under subsection (2) above is referred to a rent assessment committee, the committee shall consider the terms proposed in the notice and shall determine whether those terms, or some other terms (dealing with the same subject matter as the proposed terms), are such as, in the committee’s opinion, might reasonably be expected to be found in an assured periodic tenancy of the dwelling-house concerned, being a tenancy—
  - (a) which begins on the coming to an end of the former tenancy; and
  - (b) which is granted by a willing landlord on terms which, except in so far as they relate to the subject matter of the proposed terms, are those of the statutory periodic tenancy at the time of the committee’s consideration.
- (5) Whether or not a notice under subsection (2) above proposes an adjustment of the amount of the rent under the statutory periodic tenancy, where a rent assessment

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committee determine any terms under subsection (4) above, they shall, if they consider it appropriate, specify such an adjustment to take account of the terms so determined.

- (6) In making a determination under subsection (4) above, or specifying an adjustment of an amount of rent under subsection (5) above, there shall be disregarded any effect on the terms or the amount of the rent attributable to the granting of a tenancy to a sitting tenant.
- (7) Where a notice under subsection (2) above is referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, with effect from such date as the committee may direct—
- (a) the terms determined by the committee shall become terms of the statutory periodic tenancy in substitution for any of the implied terms dealing with the same subject matter; and
  - (b) the amount of the rent under the statutory periodic tenancy shall be altered to accord with any adjustment specified by the committee;

but for the purposes of paragraph (b) above the committee shall not direct a date earlier than the date specified, in accordance with subsection (3)(b) above, in the notice referred to them.

- (8) Nothing in this section requires a rent assessment committee to continue with a determination under subsection (4) above if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

## 7 Orders for possession

- (1) The court shall not make an order for possession of a dwelling-house let on an assured tenancy except on one or more of the grounds set out in Schedule 2 to this Act; but nothing in this Part of this Act relates to proceedings for possession of such a dwelling-house which are brought by a mortgagee, within the meaning of the Law of Property Act 1925, who has lent money on the security of the assured tenancy.
- (2) The following provisions of this section have effect, subject to section 8 below, in relation to proceedings for the recovery of possession of a dwelling-house let on an assured tenancy.
- (3) If the court is satisfied that any of the grounds in Part I of Schedule 2 to this Act is established then, subject to subsection (6) below, the court shall make an order for possession.
- (4) If the court is satisfied that any of the grounds in Part II of Schedule 2 to this Act is established, then, subject to subsection (6) below, the court may make an order for possession if it considers it reasonable to do so.
- (5) Part III of Schedule 2 to this Act shall have effect for supplementing Ground 9 in that Schedule and Part IV of that Schedule shall have effect in relation to notices given as mentioned in Grounds 1 to 5 of that Schedule.
- (6) The court shall not make an order for possession of a dwelling-house to take effect at a time when it is let on an assured fixed term tenancy unless—
  - (a) the ground for possession is Ground 2 or Ground 8 in Part I of Schedule 2 to this Act or any of the grounds in Part II of that Schedule, other than Ground 9 or Ground 16; and

- (b) the terms of the tenancy make provision for it to be brought to an end on the ground in question (whether that provision takes the form of a provision for re-entry, for forfeiture, for determination by notice or otherwise).
- (7) Subject to the preceding provisions of this section, the court may make an order for possession of a dwelling-house on grounds relating to a fixed term tenancy which has come to an end; and where an order is made in such circumstances, any statutory periodic tenancy which has arisen on the ending of the fixed term tenancy shall end (without any notice and regardless of the period) on the day on which the order takes effect.

## **8 Notice of proceedings for possession**

- (1) The court shall not entertain proceedings for possession of a dwelling-house let on an assured tenancy unless—
- (a) the landlord or, in the case of joint landlords, at least one of them has served on the tenant a notice in accordance with this section and the proceedings are begun within the time limits stated in the notice in accordance with subsections (3) and (4) below; or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (2) The court shall not make an order for possession on any of the grounds in Schedule 2 to this Act unless that ground and particulars of it are specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the court.
- (3) A notice under this section is one in the prescribed form informing the tenant that—
- (a) the landlord intends to begin proceedings for possession of the dwelling-house on one or more of the grounds specified in the notice; and
  - (b) those proceedings will not begin earlier than a date specified in the notice which, without prejudice to any additional limitation under subsection (4) below, shall not be earlier than the expiry of the period of two weeks from the date of service of the notice; and
  - (c) those proceedings will not begin later than twelve months from the date of service of the notice.
- (4) If a notice under this section specifies, in accordance with subsection (3)(a) above, any of Grounds 1, 2, 5 to 7, 9 and 16 in Schedule 2 to this Act (whether with or without other grounds), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—
- (a) two months from the date of service of the notice; and
  - (b) if the tenancy is a periodic tenancy, the earliest date on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section.
- (5) The court may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground 8 in Schedule 2 to this Act.
- (6) Where a notice under this section—
- (a) is served at a time when the dwelling-house is let on a fixed term tenancy, or

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(b) is served after a fixed term tenancy has come to an end but relates (in whole or in part) to events occurring during that tenancy, the notice shall have effect notwithstanding that the tenant becomes or has become tenant under a statutory periodic tenancy arising on the coming to an end of the fixed term tenancy.

## **9 Extended discretion of court in possession claims**

- (1) Subject to subsection (6) below, the court may adjourn for such period or periods as it thinks fit proceedings for possession of a dwelling-house let on an assured tenancy.
- (2) On the making of an order for possession of a dwelling-house let on an assured tenancy or at any time before the execution of such an order, the court, subject to subsection (6) below, may—
  - (a) stay or suspend execution of the order, or
  - (b) postpone the date of possession,for such period or periods as the court thinks just.
- (3) On any such adjournment as is referred to in subsection (1) above or on any such stay, suspension or postponement as is referred to in subsection (2) above, the court, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, shall impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after the termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.
- (4) If any such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind any such order as is referred to in subsection (2) above.
- (5) In any case where—
  - (a) at a time when proceedings are brought for possession of a dwelling-house let on an assured tenancy, the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1983, is in occupation of the dwelling-house, and
  - (b) the assured tenancy is terminated as a result of those proceedings,the spouse or former spouse, so long as he or she remains in occupation, shall have the same rights in relation to, or in connection with, any such adjournment as is referred to in subsection (1) above or any such stay, suspension or postponement as is referred to in subsection (2) above, as he or she would have if those rights of occupation were not affected by the termination of the tenancy.
- (6) This section does not apply if the court is satisfied that the landlord is entitled to possession of the dwelling-house—
  - (a) on any of the grounds in Part I of Schedule 2 to this Act; or
  - (b) by virtue of subsection (1) or subsection (4) of section 21 below.

## **10 Special provisions applicable to shared accommodation**

- (1) This section applies in a case falling within subsection (1) of section 3 above and expressions used in this section have the same meaning as in that section.



- (2) Without prejudice to the enforcement of any order made under subsection (3) below, while the tenant is in possession of the separate accommodation, no order shall be made for possession of any of the shared accommodation, whether on the application of the immediate landlord of the tenant or on the application of any person under whom that landlord derives title, unless a like order has been made, or is made at the same time, in respect of the separate accommodation; and the provisions of section 6 above shall have effect accordingly.
- (3) On the application of the landlord, the court may make such order as it thinks just either—
  - (a) terminating the right of the tenant to use the whole or any part of the shared accommodation other than living accommodation; or
  - (b) modifying his right to use the whole or any part of the shared accommodation, whether by varying the persons or increasing the number of persons entitled to the use of that accommodation or otherwise.
- (4) No order shall be made under subsection (3) above so as to effect any termination or modification of the rights of the tenant which, apart from section 3(3) above, could not be effected by or under the terms of the tenancy.

## **11 Payment of removal expenses in certain cases**

- (1) Where a court makes an order for possession of a dwelling-house let on an assured tenancy on Ground 6 or Ground 9 in Schedule 2 to this Act (but not on any other ground), the landlord shall pay to the tenant a sum equal to the reasonable expenses likely to be incurred by the tenant in removing from the dwelling-house.
- (2) Any question as to the amount of the sum referred to in subsection (1) above shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.
- (3) Any sum payable to a tenant by virtue of this section shall be recoverable as a civil debt due from the landlord.

## **12 Compensation for misrepresentation or concealment**

Where a landlord obtains an order for possession of a dwelling-house let on an assured tenancy on one or more of the grounds in Schedule 2 to this Act and it is subsequently made to appear to the court that the order was obtained by misrepresentation or concealment of material facts, the court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as a result of the order.

### *Rent and other terms*

## **13 Increases of rent under assured periodic tenancies**

- (1) This section applies to—
  - (a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and

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- (b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.
- (2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than—
- (a) the minimum period after the date of the service of the notice; and
  - (b) except in the case of a statutory periodic tenancy, the first anniversary of the date on which the first period of the tenancy began; and
  - (c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14 below, the first anniversary of the date on which the increased rent took effect.
- (3) The minimum period referred to in subsection (2) above is—
- (a) in the case of a yearly tenancy, six months;
  - (b) in the case of a tenancy where the period is less than a month, one month; and
  - (c) in any other case, a period equal to the period of the tenancy.
- (4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—
- (a) the tenant by an application in the prescribed form refers the notice to a rent assessment committee; or
  - (b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.
- (5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

#### **14 Determination of rent by rent assessment committee**

- (1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—
- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
  - (b) which begins at the beginning of the new period specified in the notice;
  - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
  - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded—
- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;

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- (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement—
    - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
    - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
  - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely—
- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
  - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
  - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section “rent” does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture or for any of the matters referred to in subsection (1)(a) of that section, whether or not those sums are separate from the sums payable for the occupation of the dwelling-house concerned or are payable under separate agreements.
- (5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the rent assessment committee shall make their determination under this section as if the rates were not so borne.
- (6) In any case where—
- (a) a rent assessment committee have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and
  - (b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and
  - (c) the committee propose to hear the two references together,
- the committee shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection (1)(c) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

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- (7) Where a notice under section 13(2) above has been referred to a rent assessment committee, then, unless the landlord and the tenant otherwise agree, the rent determined by the committee (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the rent assessment committee that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the committee may direct.
- (8) Nothing in this section requires a rent assessment committee to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

## **15 Limited prohibition on assignment etc. without consent**

- (1) Subject to subsection (3) below, it shall be an implied term of every assured tenancy which is a periodic tenancy that, except with the consent of the landlord, the tenant shall not—
- (a) assign the tenancy (in whole or in part); or
  - (b) sub-let or part with possession of the whole or any part of the dwelling-house let on the tenancy.
- (2) Section 19 of the Landlord and Tenant Act 1927 (consents to assign not to be unreasonably withheld etc.) shall not apply to a term which is implied into an assured tenancy by subsection (1) above.
- (3) In the case of a periodic tenancy which is not a statutory periodic tenancy subsection (1) above does not apply if—
- (a) there is a provision (whether contained in the tenancy or not) under which the tenant is prohibited (whether absolutely or conditionally) from assigning or sub-letting or parting with possession or is permitted (whether absolutely or conditionally) to assign, sub-let or part with possession; or
  - (b) a premium is required to be paid on the grant or renewal of the tenancy.
- (4) In subsection (3)(b) above “premium” includes—
- (a) any fine or other like sum;
  - (b) any other pecuniary consideration in addition to rent; and
  - (c) any sum paid by way of deposit, other than one which does not exceed one-sixth of the annual rent payable under the tenancy immediately after the grant or renewal in question.

## **16 Access for repairs**

It shall be an implied term of every assured tenancy that the tenant shall afford to the landlord access to the dwelling-house let on the tenancy and all reasonable facilities for executing therein any repairs which the landlord is entitled to execute.

*Miscellaneous*

**17 Succession to assured periodic tenancy by spouse**

- (1) In any case where—
- (a) the sole tenant under an assured periodic tenancy dies, and
  - (b) immediately before the death, the tenant's spouse was occupying the dwelling-house as his or her only or principal home, and
  - (c) the tenant was not himself a successor, as defined in subsection (2) or subsection (3) below,
- then, on the death, the tenancy vests by virtue of this section in the spouse (and, accordingly, does not devolve under the tenant's will or intestacy).
- (2) For the purposes of this section, a tenant is a successor in relation to a tenancy if—
- (a) the tenancy became vested in him either by virtue of this section or under the will or intestacy of a previous tenant; or
  - (b) at some time before the tenant's death the tenancy was a joint tenancy held by himself and one or more other persons and, prior to his death, he became the sole tenant by survivorship; or
  - (c) he became entitled to the tenancy as mentioned in section 39(5) below.
- (3) For the purposes of this section, a tenant is also a successor in relation to a tenancy (in this subsection referred to as "the new tenancy") which was granted to him (alone or jointly with others) if—
- (a) at some time before the grant of the new tenancy, he was, by virtue of subsection (2) above, a successor in relation to an earlier tenancy of the same or substantially the same dwelling-house as is let under the new tenancy; and
  - (b) at all times since he became such a successor he has been a tenant (alone or jointly with others) of the dwelling-house which is let under the new tenancy or of a dwelling-house which is substantially the same as that dwelling-house.
- (4) For the purposes of this section, a person who was living with the tenant as his or her wife or husband shall be treated as the tenant's spouse.
- (5) If, on the death of the tenant, there is, by virtue of subsection (4) above, more than one person who fulfils the condition in subsection (1)(b) above, such one of them as may be decided by agreement or, in default of agreement, by the county court shall be treated as the tenant's spouse for the purposes of this section.

**18 Provisions as to reversions on assured tenancies**

- (1) If at any time—
- (a) a dwelling-house is for the time being lawfully let on an assured tenancy, and
  - (b) the landlord under the assured tenancy is himself a tenant under a superior tenancy; and
  - (c) the superior tenancy comes to an end,
- then, subject to subsection (2) below, the assured tenancy shall continue in existence as a tenancy held of the person whose interest would, apart from the continuance of the assured tenancy, entitle him to actual possession of the dwelling-house at that time.

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- (2) Subsection (1) above does not apply to an assured tenancy if the interest which, by virtue of that subsection, would become that of the landlord, is such that, by virtue of Schedule 1 to this Act, the tenancy could not be an assured tenancy.
- (3) Where, by virtue of any provision of this Part of this Act, an assured tenancy which is a periodic tenancy (including a statutory periodic tenancy) continues beyond the beginning of a reversionary tenancy which was granted (whether before, on or after the commencement of this Act) so as to begin on or after—
- (a) the date on which the previous contractual assured tenancy came to an end, or
  - (b) a date on which, apart from any provision of this Part, the periodic tenancy could have been brought to an end by the landlord by notice to quit,
- the reversionary tenancy shall have effect as if it had been granted subject to the periodic tenancy.
- (4) The reference in subsection (3) above to the previous contractual assured tenancy applies only where the periodic tenancy referred to in that subsection is a statutory periodic tenancy and is a reference to the fixed-term tenancy which immediately preceded the statutory periodic tenancy.

## **19 Restriction on levy of distress for rent**

- (1) Subject to subsection (2) below, no distress for the rent of any dwelling-house let on an assured tenancy shall be levied except with the leave of the county court; and, with respect to any application for such leave, the court shall have the same powers with respect to adjournment, stay, suspension, postponement and otherwise as are conferred by section 9 above in relation to proceedings for possession of such a dwelling-house.
- (2) Nothing in subsection (1) above applies to distress levied under section 102 of the County Courts Act 1984.

## **CHAPTER II**

### ASSURED SHORTHOLD TENANCIES

## **20 Assured shorthold tenancies**

- (1) Subject to subsection (3) below, an assured shorthold tenancy is an assured tenancy—
- (a) which is a fixed term tenancy granted for a term certain of not less than six months; and
  - (b) in respect of which there is no power for the landlord to determine the tenancy at any time earlier than six months from the beginning of the tenancy; and
  - (c) in respect of which a notice is served as mentioned in subsection (2) below.
- (2) The notice referred to in subsection (1)(c) above is one which—
- (a) is in such form as may be prescribed;
  - (b) is served before the assured tenancy is entered into;
  - (c) is served by the person who is to be the landlord under the assured tenancy on the person who is to be the tenant under that tenancy; and
  - (d) states that the assured tenancy to which it relates is to be a shorthold tenancy.
- (3) Notwithstanding anything in subsection (1) above, where—

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- (a) immediately before a tenancy (in this subsection referred to as “the new tenancy”) is granted, the person to whom it is granted or, as the case may be, at least one of the persons to whom it is granted was a tenant under an assured tenancy which was not a shorthold tenancy, and
- (b) the new tenancy is granted by the person who, immediately before the beginning of the tenancy, was the landlord under the assured tenancy referred to in paragraph (a) above,

the new tenancy cannot be an assured shorthold tenancy.

- (4) Subject to subsection (5) below, if, on the coming to an end of an assured shorthold tenancy (including a tenancy which was an assured shorthold but ceased to be assured before it came to an end), a new tenancy of the same or substantially the same premises comes into being under which the landlord and the tenant are the same as at the coming to an end of the earlier tenancy, then, if and so long as the new tenancy is an assured tenancy, it shall be an assured shorthold tenancy, whether or not it fulfils the conditions in paragraphs (a) to (c) of subsection (1) above.
- (5) Subsection (4) above does not apply if, before the new tenancy is entered into (or, in the case of a statutory periodic tenancy, takes effect in possession), the landlord serves notice on the tenant that the new tenancy is not to be a shorthold tenancy.
- (6) In the case of joint landlords—
  - (a) the reference in subsection (2)(c) above to the person who is to be the landlord is a reference to at least one of the persons who are to be joint landlords; and
  - (b) the reference in subsection (5) above to the landlord is a reference to at least one of the joint landlords.
- (7) Section 14 above shall apply in relation to an assured shorthold tenancy as if in subsection (1) of that section the reference to an assured tenancy were a reference to an assured shorthold tenancy.

## **21 Recovery of possession on expiry or termination of assured shorthold tenancy**

- (1) Without prejudice to any right of the landlord under an assured shorthold tenancy to recover possession of the dwelling-house let on the tenancy in accordance with Chapter I above, on or after the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, a court shall make an order for possession of the dwelling-house if it is satisfied—
  - (a) that the assured shorthold tenancy has come to an end and no further assured tenancy (whether shorthold or not) is for the time being in existence, other than a statutory periodic tenancy; and
  - (b) the landlord or, in the case of joint landlords, at least one of them has given to the tenant not less than two months' notice stating that he requires possession of the dwelling-house.
- (2) A notice under paragraph (b) of subsection (1) above may be given before or on the day on which the tenancy comes to an end; and that subsection shall have effect notwithstanding that on the coming to an end of the fixed term tenancy a statutory periodic tenancy arises.
- (3) Where a court makes an order for possession of a dwelling-house by virtue of subsection (1) above, any statutory periodic tenancy which has arisen on the coming to

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an end of the assured shorthold tenancy shall end (without further notice and regardless of the period) on the day on which the order takes effect.

- (4) Without prejudice to any such right as is referred to in subsection (1) above, a court shall make an order for possession of a dwelling-house let on an assured shorthold tenancy which is a periodic tenancy if the court is satisfied—
- (a) that the landlord or, in the case of joint landlords, at least one of them has given to the tenant a notice stating that, after a date specified in the notice, being the last day of a period of the tenancy and not earlier than two months after the date the notice was given, possession of the dwelling-house is required by virtue of this section; and
  - (b) that the date specified in the notice under paragraph (a) above is not earlier than the earliest day on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the notice under paragraph (a) above.

## **22 Reference of excessive rents to rent assessment committee**

- (1) Subject to section 23 and subsection (2) below, the tenant under an assured shorthold tenancy in respect of which a notice was served as mentioned in section 20(2) above may make an application in the prescribed form to a rent assessment committee for a determination of the rent which, in the committee's opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.
- (2) No application may be made under this section if—
- (a) the rent payable under the tenancy is a rent previously determined under this section; or
  - (b) the tenancy is an assured shorthold tenancy falling within subsection (4) of section 20 above (and, accordingly, is one in respect of which notice need not have been served as mentioned in subsection (2) of that section).
- (3) Where an application is made to a rent assessment committee under subsection (1) above with respect to the rent under an assured shorthold tenancy, the committee shall not make such a determination as is referred to in that subsection unless they consider—
- (a) that there is a sufficient number of similar dwelling-houses in the locality let on assured tenancies (whether shorthold or not); and
  - (b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.
- (4) Where, on an application under this section, a rent assessment committee make a determination of a rent for an assured shorthold tenancy—
- (a) the determination shall have effect from such date as the committee may direct, not being earlier than the date of the application;
  - (b) if, at any time on or after the determination takes effect, the rent which, apart from this paragraph, would be payable under the tenancy exceeds the rent so determined, the excess shall be irrecoverable from the tenant; and
  - (c) no notice may be served under section 13(2) above with respect to a tenancy of the dwelling-house in question until after the first anniversary of the date on which the determination takes effect.



- (5) Subsections (4), (5) and (8) of section 14 above apply in relation to a determination of rent under this section as they apply in relation to a determination under that section and, accordingly, where subsection (5) of that section applies, any reference in subsection (4)(b) above to rent is a reference to rent exclusive of the amount attributable to rates.

### **23 Termination of rent assessment committee's functions**

- (1) If the Secretary of State by order made by statutory instrument so provides, section 22 above shall not apply in such cases or to tenancies of dwelling-houses in such areas or in such other circumstances as may be specified in the order.
- (2) An order under this section may contain such transitional, incidental and supplementary provisions as appear to the Secretary of State to be desirable.
- (3) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

## **CHAPTER III**

### **ASSURED AGRICULTURAL OCCUPANCIES**

### **24 Assured agricultural occupancies**

- (1) A tenancy or licence of a dwelling-house is for the purposes of this Part of this Act an “assured agricultural occupancy” if—
- (a) it is of a description specified in subsection (2) below; and
  - (b) by virtue of any provision of Schedule 3 to this Act the agricultural worker condition is for the time being fulfilled with respect to the dwelling-house subject to the tenancy or licence.
- (2) The following are the tenancies and licences referred to in subsection (1)(a) above—
- (a) an assured tenancy which is not an assured shorthold tenancy;
  - (b) a tenancy which does not fall within paragraph (a) above by reason only of paragraph 3 or paragraph 7 of Schedule 1 to this Act (or of both of those paragraphs); and
  - (c) a licence under which a person has the exclusive occupation of a dwelling-house as a separate dwelling and which, if it conferred a sufficient interest in land to be a tenancy, would be a tenancy falling within paragraph (a) or paragraph (b) above.
- (3) For the purposes of Chapter I above and the following provisions of this Chapter, every assured agricultural occupancy which is not an assured tenancy shall be treated as if it were such a tenancy and any reference to a tenant, a landlord or any other expression appropriate to a tenancy shall be construed accordingly; but the provisions of Chapter I above shall have effect in relation to every assured agricultural occupancy subject to the provisions of this Chapter.
- (4) Section 14 above shall apply in relation to an assured agricultural occupancy as if in subsection (1) of that section the reference to an assured tenancy were a reference to an assured agricultural occupancy.

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## **25 Security of tenure**

- (1) If a statutory periodic tenancy arises on the coming to an end of an assured agricultural occupancy—
  - (a) it shall be an assured agricultural occupancy as long as, by virtue of any provision of Schedule 3 to this Act, the agricultural worker condition is for the time being fulfilled with respect to the dwelling-house in question; and
  - (b) if no rent was payable under the assured agricultural occupancy which constitutes the fixed term tenancy referred to in subsection (2) of section 5 above, subsection (3)(d) of that section shall apply as if for the words “the same as those for which rent was last payable under” there were substituted “monthly beginning on the day following the coming to an end of”.
- (2) In its application to an assured agricultural occupancy, Part II of Schedule 2 to this Act shall have effect with the omission of Ground 16.
- (3) In its application to an assured agricultural occupancy, Part III of Schedule 2 to this Act shall have effect as if any reference in paragraph 2 to an assured tenancy included a reference to an assured agricultural occupancy.
- (4) If the tenant under an assured agricultural occupancy gives notice to terminate his employment then, notwithstanding anything in any agreement or otherwise, that notice shall not constitute a notice to quit as respects the assured agricultural occupancy.
- (5) Nothing in subsection (4) above affects the operation of an actual notice to quit given in respect of an assured agricultural occupancy.

## **26 Rehousing of agricultural workers etc**

In section 27 of the Rent (Agriculture) Act 1976 (rehousing: applications to housing authority)—

- (a) in subsection (1)(a) after “statutory tenancy” there shall be inserted “or an assured agricultural occupancy”; and
- (b) at the end of subsection (3) there shall be added “and assured agricultural occupancy has the same meaning as in Chapter III of Part I of the Housing Act 1988”.

## **CHAPTER IV**

### PROTECTION FROM EVICTION

## **27 Damages for unlawful eviction**

- (1) This section applies if, at any time after 9th June 1988, a landlord (in this section referred to as “the landlord in default”) or any person acting on behalf of the landlord in default unlawfully deprives the residential occupier of any premises of his occupation of the whole or part of the premises.
- (2) This section also applies if, at any time after 9th June 1988, a landlord (in this section referred to as “the landlord in default”) or any person acting on behalf of the landlord in default—
  - (a) attempts unlawfully to deprive the residential occupier of any premises of his occupation of the whole or part of the premises, or

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- (b) knowing or having reasonable cause to believe that the conduct is likely to cause the residential occupier of any premises—
  - (i) to give up his occupation of the premises or any part thereof, or
  - (ii) to refrain from exercising any right or pursuing any remedy in respect of the premises or any part thereof,does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, and, as a result, the residential occupier gives up his occupation of the premises as a residence.
- (3) Subject to the following provisions of this section, where this section applies, the landlord in default shall, by virtue of this section, be liable to pay to the former residential occupier, in respect of his loss of the right to occupy the premises in question as his residence, damages assessed on the basis set out in section 28 below.
- (4) Any liability arising by virtue of subsection (3) above—
  - (a) shall be in the nature of a liability in tort; and
  - (b) subject to subsection (5) below, shall be in addition to any liability arising apart from this section (whether in tort, contract or otherwise).
- (5) Nothing in this section affects the right of a residential occupier to enforce any liability which arises apart from this section in respect of his loss of the right to occupy premises as his residence; but damages shall not be awarded both in respect of such a liability and in respect of a liability arising by virtue of this section on account of the same loss.
- (6) No liability shall arise by virtue of subsection (3) above if—
  - (a) before the date on which proceedings to enforce the liability are finally disposed of, the former residential occupier is reinstated in the premises in question in such circumstances that he becomes again the residential occupier of them; or
  - (b) at the request of the former residential occupier, a court makes an order (whether in the nature of an injunction or otherwise) as a result of which he is reinstated as mentioned in paragraph (a) above;and, for the purposes of paragraph (a) above, proceedings to enforce a liability are finally disposed of on the earliest date by which the proceedings (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if any appeal is abandoned, the proceedings shall be taken to be disposed of on the date of the abandonment.
- (7) If, in proceedings to enforce a liability arising by virtue of subsection (3) above, it appears to the court—
  - (a) that, prior to the event which gave rise to the liability, the conduct of the former residential occupier or any person living with him in the premises concerned was such that it is reasonable to mitigate the damages for which the landlord in default would otherwise be liable, or
  - (b) that, before the proceedings were begun, the landlord in default offered to reinstate the former residential occupier in the premises in question and either it was unreasonable of the former residential occupier to refuse that offer or, if he had obtained alternative accommodation before the offer was made, it would have been unreasonable of him to refuse that offer if he had not obtained that accommodation,

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the court may reduce the amount of damages which would otherwise be payable to such amount as it thinks appropriate.

- (8) In proceedings to enforce a liability arising by virtue of subsection (3) above, it shall be a defence for the defendant to prove that he believed, and had reasonable cause to believe—
- (a) that the residential occupier had ceased to reside in the premises in question at the time when he was deprived of occupation as mentioned in subsection (1) above or, as the case may be, when the attempt was made or the acts were done as a result of which he gave up his occupation of those premises; or
  - (b) that, where the liability would otherwise arise by virtue only of the doing of acts or the withdrawal or withholding of services, he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.
- (9) In this section—
- (a) “residential occupier”, in relation to any premises, has the same meaning as in section 1 of the 1977 Act;
  - (b) “the right to occupy”, in relation to a residential occupier, includes any restriction on the right of another person to recover possession of the premises in question;
  - (c) “landlord”, in relation to a residential occupier, means the person who, but for the occupier’s right to occupy, would be entitled to occupation of the premises and any superior landlord under whom that person derives title;
  - (d) “former residential occupier”, in relation to any premises, means the person who was the residential occupier until he was deprived of or gave up his occupation as mentioned in subsection (1) or subsection (2) above (and, in relation to a former residential occupier, “the right to occupy” and “landlord” shall be construed accordingly).

## **28 The measure of damages**

- (1) The basis for the assessment of damages referred to in section 27(3) above is the difference in value, determined as at the time immediately before the residential occupier ceased to occupy the premises in question as his residence, between—
- (a) the value of the interest of the landlord in default determined on the assumption that the residential occupier continues to have the same right to occupy the premises as before that time; and
  - (b) the value of that interest determined on the assumption that the residential occupier has ceased to have that right.
- (2) In relation to any premises, any reference in this section to the interest of the landlord in default is a reference to his interest in the building in which the premises in question are comprised (whether or not that building contains any other premises) together with its curtilage.
- (3) For the purposes of the valuations referred to in subsection (1) above, it shall be assumed—
- (a) that the landlord in default is selling his interest on the open market to a willing buyer;
  - (b) that neither the residential occupier nor any member of his family wishes to buy; and

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- (c) that it is unlawful to carry out any substantial development of any of the land in which the landlord's interest subsists or to demolish the whole or part of any building on that land.
- (4) In this section “the landlord in default” has the same meaning as in section 27 above and subsection (9) of that section applies in relation to this section as it applies in relation to that.
- (5) Section 113 of the Housing Act 1985 (meaning of “members of a person's family”) applies for the purposes of subsection (3)(b) above.
- (6) The reference in subsection (3)(c) above to substantial development of any of the land in which the landlord's interest subsists is a reference to any development other than—
  - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; or
  - (b) a change of use resulting in the building referred to in subsection (2) above or any part of it being used as, or as part of, one or more dwelling-houses;and in this subsection “general development order” has the same meaning as in section 43(3) of the Town and Country Planning Act 1971 and other expressions have the same meaning as in that Act.

## **29 Offences of harassment**

- (1) In section 1 of the 1977 Act (unlawful eviction and harassment of occupier), with respect to acts done after the commencement of this Act, subsection (3) shall have effect with the substitution, for the word “calculated”, of the word “likely”.
- (2) After that subsection there shall be inserted the following subsections—
  - “(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—
    - (a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or
    - (b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.
  - (3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.
  - (3C) In subsection (3A) above “landlord”, in relation to a residential occupier of any premises, means the person who, but for—
    - (a) the residential occupier's right to remain in occupation of the premises, or
    - (b) a restriction on the person's right to recover possession of the premises,

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would be entitled to occupation of the premises and any superior landlord under whom that person derives title.”

### **30 Variation of scope of 1977 ss. 3 and 4**

- (1) In section 3 of the 1977 Act (prohibition of eviction without due process of law), in subsection (1) for the words “not a statutorily protected tenancy” there shall be substituted “neither a statutorily protected tenancy nor an excluded tenancy”.
- (2) After subsection (2A) of that section there shall be inserted the following subsections—
  - “(2B) Subsections (1) and (2) above apply in relation to any premises occupied as a dwelling under a licence, other than an excluded licence, as they apply in relation to premises let as a dwelling under a tenancy, and in those subsections the expressions “let” and “tenancy” shall be construed accordingly.
  - (2C) References in the preceding provisions of this section and section 4(2A) below to an excluded tenancy do not apply to—
    - (a) a tenancy entered into before the date on which the Housing Act 1988 came into force, or
    - (b) a tenancy entered into on or after that date but pursuant to a contract made before that date,
 but, subject to that, “excluded tenancy” and “excluded licence” shall be construed in accordance with section 3A below.”
- (3) In section 4 of the 1977 Act (special provisions for agricultural employees) after subsection (2) there shall be inserted the following subsection—
  - “(2A) In accordance with section 3(2B) above, any reference in subsections (1) and (2) above to the tenant under the former tenancy includes a reference to the licensee under a licence (other than an excluded licence) which has come to an end (being a licence to occupy premises as a dwelling); and in the following provisions of this section the expressions “tenancy” and “rent” and any other expressions referable to a tenancy shall be construed accordingly.”

### **31 Excluded tenancies and licences**

After section 3 of the 1977 Act there shall be inserted the following section—

#### **“3A Excluded tenancies and licences**

- (1) Any reference in this Act to an excluded tenancy or an excluded licence is a reference to a tenancy or licence which is excluded by virtue of any of the following provisions of this section.
- (2) A tenancy or licence is excluded if—
  - (a) under its terms the occupier shares any accommodation with the landlord or licensor; and
  - (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal home premises of which the whole or part of the shared accommodation formed part.

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- (3) A tenancy or licence is also excluded if—
- (a) under its terms the occupier shares any accommodation with a member of the family of the landlord or licensor;
  - (b) immediately before the tenancy or licence was granted and also at the time it comes to an end, the member of the family of the landlord or licensor occupied as his only or principal home premises of which the whole or part of the shared accommodation formed part; and
  - (c) immediately before the tenancy or licence was granted and also at the time it comes to an end, the landlord or licensor occupied as his only or principal home premises in the same building as the shared accommodation and that building is not a purpose-built block of flats.
- (4) For the purposes of subsections (2) and (3) above, an occupier shares accommodation with another person if he has the use of it in common with that person (whether or not also in common with others) and any reference in those subsections to shared accommodation shall be construed accordingly, and if, in relation to any tenancy or licence, there is at any time more than one person who is the landlord or licensor, any reference in those subsections to the landlord or licensor shall be construed as a reference to any one of those persons.
- (5) In subsections (2) to (4) above—
- (a) “accommodation” includes neither an area used for storage nor a staircase, passage, corridor or other means of access;
  - (b) “occupier” means, in relation to a tenancy, the tenant and, in relation to a licence, the licensee; and
  - (c) “purpose-built block of flats” has the same meaning as in Part III of Schedule 1 to the Housing Act 1988;
- and section 113 of the Housing Act 1985 shall apply to determine whether a person is for the purposes of subsection (3) above a member of another’s family as it applies for the purposes of Part IV of that Act.
- (6) A tenancy or licence is excluded if it was granted as a temporary expedient to a person who entered the premises in question or any other premises as a trespasser (whether or not, before the beginning of that tenancy or licence, another tenancy or licence to occupy the premises or any other premises had been granted to him).
- (7) A tenancy or licence is excluded if—
- (a) it confers on the tenant or licensee the right to occupy the premises for a holiday only; or
  - (b) it is granted otherwise than for money or money’s worth.
- (8) A licence is excluded if it confers rights of occupation in a hostel, within the meaning of the Housing Act 1985, which is provided by—
- (a) the council of a county, district or London Borough, the Common Council of the City of London, the Council of the Isles of Scilly, the Inner London Education Authority, a joint authority within the meaning of the Local Government Act 1985 or a residuary body within the meaning of that Act;
  - (b) a development corporation within the meaning of the New Towns Act 1981;
  - (c) the Commission for the New Towns;

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- (d) an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980;
- (e) a housing action trust established under Part III of the Housing Act 1988;
- (f) the Development Board for Rural Wales;
- (g) the Housing Corporation or Housing for Wales;
- (h) a housing trust which is a charity or a registered housing association, within the meaning of the Housing Associations Act 1985; or
- (i) any other person who is, or who belongs to a class of person which is, specified in an order made by the Secretary of State.

(9) The power to make an order under subsection (8)(i) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

### **32 Notice to quit etc**

(1) In section 5 of the 1977 Act (validity of notices to quit) at the beginning of subsection (1) there shall be inserted the words “Subject to subsection (1B) below”.

(2) After subsection (1) of that section there shall be inserted the following subsections—

“(1A) Subject to subsection (1B) below, no notice by a licensor or a licensee to determine a periodic licence to occupy premises as a dwelling (whether the licence was granted before or after the passing of this Act) shall be valid unless—

- (a) it is in writing and contains such information as may be prescribed, and
- (b) it is given not less than 4 weeks before the date on which it is to take effect.

(1B) Nothing in subsection (1) or subsection (1A) above applies to—

- (a) premises let on an excluded tenancy which is entered into on or after the date on which the Housing Act 1988 came into force unless it is entered into pursuant to a contract made before that date; or
- (b) premises occupied under an excluded licence.”

### **33 Interpretation of Chapter IV and the 1977 Act**

(1) In this Chapter “the 1977 Act” means the Protection from Eviction Act 1977.

(2) In section 8 of the 1977 Act (interpretation) at the end of subsection (1) (statutory protected tenancy) there shall be inserted—

“(e) an assured tenancy or assured agricultural occupancy under Part I of the Housing Act 1988.”

(3) At the end of that section there shall be added the following subsections—

“(4) In this Act “excluded tenancy” and “excluded licence” have the meaning assigned by section 3A of this Act.



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- (5) If, on or after the date on which the Housing Act 1988 came into force, the terms of an excluded tenancy or excluded licence entered into before that date are varied, then—
- (a) if the variation affects the amount of the rent which is payable under the tenancy or licence, the tenancy or licence shall be treated for the purposes of sections 3(2C) and 5(1B) above as a new tenancy or licence entered into at the time of the variation; and
  - (b) if the variation does not affect the amount of the rent which is so payable, nothing in this Act shall affect the determination of the question whether the variation is such as to give rise to a new tenancy or licence.
- (6) Any reference in subsection (5) above to a variation affecting the amount of the rent which is payable under a tenancy or licence does not include a reference to—
- (a) a reduction or increase effected under Part III or Part VI of the Rent Act 1977 (rents under regulated tenancies and housing association tenancies), section 78 of that Act (power of rent tribunal in relation to restricted contracts) or sections 11 to 14 of the Rent (Agriculture) Act 1976; or
  - (b) a variation which is made by the parties and has the effect of making the rent expressed to be payable under the tenancy or licence the same as a rent for the dwelling which is entered in the register under Part IV or section 79 of the Rent Act 1977.”

## CHAPTER V

### PHASING OUT OF RENT ACTS AND OTHER TRANSITIONAL PROVISIONS

#### **34 New protected tenancies and agricultural occupancies restricted to special cases**

- (1) A tenancy which is entered into on or after the commencement of this Act cannot be a protected tenancy, unless—
- (a) it is entered into in pursuance of a contract made before the commencement of this Act; or
  - (b) it is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was a protected or statutory tenant and is so granted by the person who at that time was the landlord (or one of the joint landlords) under the protected or statutory tenancy; or
  - (c) it is granted to a person (alone or jointly with others) in the following circumstances—
    - (i) prior to the grant of the tenancy, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in section 98(1)(a) of, or Case 1 in Schedule 16 to, the Rent Act 1977 or Case 1 in Schedule 4 to the Rent (Agriculture) Act 1976 (suitable alternative accommodation available); and
    - (ii) the tenancy is of the premises which constitute the suitable alternative accommodation as to which the court was so satisfied; and

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- (iii) in the proceedings for possession the court considered that, in the circumstances, the grant of an assured tenancy would not afford the required security and, accordingly, directed that the tenancy would be a protected tenancy; or
  - (d) it is a tenancy in relation to which subsections (1) and (3) of section 38 below have effect in accordance with subsection (4) of that section.
- (2) In subsection (1)(b) above “protected tenant” and “statutory tenant” do not include—
- (a) a tenant under a protected shorthold tenancy;
  - (b) a protected or statutory tenant of a dwelling-house which was let under a protected shorthold tenancy which ended before the commencement of this Act and in respect of which at that commencement either there has been no grant of a further tenancy or any grant of a further tenancy has been to the person who, immediately before the grant, was in possession of the dwelling-house as a protected or statutory tenant;
- and in this subsection “protected shorthold tenancy” includes a tenancy which, in proceedings for possession under Case 19 in Schedule 15 to the Rent Act 1977, is treated as a protected shorthold tenancy.
- (3) In any case where—
- (a) by virtue of subsections (1) and (2) above, a tenancy entered into on or after the commencement of this Act is an assured tenancy, but
  - (b) apart from subsection (2) above, the effect of subsection (1)(b) above would be that the tenancy would be a protected tenancy, and
  - (c) the landlord and the tenant under the tenancy are the same as at the coming to an end of the protected or statutory tenancy which, apart from subsection (2) above, would fall within subsection (1)(b) above,
- the tenancy shall be an assured shorthold tenancy (whether or not it fulfils the conditions in section 20(1) above) unless, before the tenancy is entered into, the landlord serves notice on the tenant that it is not to be a shorthold tenancy.
- (4) A licence or tenancy which is entered into on or after the commencement of this Act cannot be a relevant licence or relevant tenancy for the purposes of the Rent (Agriculture) Act 1976 (in this subsection referred to as “the 1976 Act”) unless—
- (a) it is entered into in pursuance of a contract made before the commencement of this Act; or
  - (b) it is granted to a person (alone or jointly with others) who, immediately before the licence or tenancy was granted, was a protected occupier or statutory tenant, within the meaning of the 1976 Act, and is so granted by the person who at that time was the landlord or licensor (or one of the joint landlords or licensors) under the protected occupancy or statutory tenancy in question.
- (5) Except as provided in subsection (4) above, expressions used in this section have the same meaning as in the Rent Act 1977.

### **35 Removal of special regimes for tenancies of housing associations etc**

- (1) In this section “housing association tenancy” has the same meaning as in Part VI of the Rent Act 1977.
- (2) A tenancy which is entered into on or after the commencement of this Act cannot be a housing association tenancy unless—

- (a) it is entered into in pursuance of a contract made before the commencement of this Act; or
  - (b) it is granted to a person (alone or jointly with others) who, immediately before the tenancy was granted, was a tenant under a housing association tenancy and is so granted by the person who at that time was the landlord under that housing association tenancy; or
  - (c) it is granted to a person (alone or jointly with others) in the following circumstances—
    - (i) prior to the grant of the tenancy, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 84 of the Housing Act 1985; and
    - (ii) the tenancy is of the premises which constitute the suitable accommodation as to which the court was so satisfied; and
    - (iii) in the proceedings for possession the court directed that the tenancy would be a housing association tenancy; or
  - (d) it is a tenancy in relation to which subsections (1) and (3) of section 38 below have effect in accordance with subsection (4) of that section.
- (3) Where, on or after the commencement of this Act, a registered housing association, within the meaning of the Housing Associations Act 1985, grants a secure tenancy pursuant to an obligation under section 554(2A) of the Housing Act 1985 (as set out in Schedule 17 to this Act) then, in determining whether that tenancy is a housing association tenancy, it shall be assumed for the purposes only of section 86(2)(b) of the Rent Act 1977 (tenancy would be a protected tenancy but for section 15 or 16 of that Act) that the tenancy was granted before the commencement of this Act.
- (4) A tenancy or licence which is entered into on or after the commencement of this Act cannot be a secure tenancy unless—
- (a) the interest of the landlord belongs to a local authority, a new town corporation or an urban development corporation, all within the meaning of section 80 of the Housing Act 1985, a housing action trust established under Part III of this Act or the Development Board for Rural Wales; or
  - (b) the interest of the landlord belongs to a housing co-operative within the meaning of section 27B of the Housing Act 1985 (agreements between local housing authorities and housing co-operatives) and the tenancy or licence is of a dwelling-house comprised in a housing co-operative agreement falling within that section; or
  - (c) it is entered into in pursuance of a contract made before the commencement of this Act; or
  - (d) it is granted to a person (alone or jointly with others) who, immediately before it was entered into, was a secure tenant and is so granted by the body which at that time was the landlord or licensor under the secure tenancy; or
  - (e) it is granted to a person (alone or jointly with others) in the following circumstances—
    - (i) prior to the grant of the tenancy or licence, an order for possession of a dwelling-house was made against him (alone or jointly with others) on the court being satisfied as mentioned in paragraph (b) or paragraph (c) of subsection (2) of section 84 of the Housing Act 1985; and

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- (ii) the tenancy or licence is of the premises which constitute the suitable accommodation as to which the court was so satisfied; and
  - (iii) in the proceedings for possession the court considered that, in the circumstances, the grant of an assured tenancy would not afford the required security and, accordingly, directed that the tenancy or licence would be a secure tenancy; or
  - (f) it is granted pursuant to an obligation under section 554(2A) of the Housing Act 1985 (as set out in Schedule 17 to this Act).
- (5) If, on or after the commencement of this Act, the interest of the landlord under a protected or statutory tenancy becomes held by a housing association, a housing trust, the Housing Corporation or Housing for Wales, nothing in the preceding provisions of this section shall prevent the tenancy from being a housing association tenancy or a secure tenancy and, accordingly, in such a case section 80 of the Housing Act 1985 (and any enactment which refers to that section) shall have effect without regard to the repeal of provisions of that section effected by this Act.
- (6) In subsection (5) above “housing association” and “housing trust” have the same meaning as in the Housing Act 1985.

### **36 New restricted contracts limited to transitional cases**

- (1) A tenancy or other contract entered into after the commencement of this Act cannot be a restricted contract for the purposes of the Rent Act 1977 unless it is entered into in pursuance of a contract made before the commencement of this Act.
- (2) If the terms of a restricted contract are varied after this Act comes into force then, subject to subsection (3) below,—
- (a) if the variation affects the amount of the rent which, under the contract, is payable for the dwelling in question, the contract shall be treated as a new contract entered into at the time of the variation (and subsection (1) above shall have effect accordingly); and
  - (b) if the variation does not affect the amount of the rent which, under the contract, is so payable, nothing in this section shall affect the determination of the question whether the variation is such as to give rise to a new contract.
- (3) Any reference in subsection (2) above to a variation affecting the amount of the rent which, under a contract, is payable for a dwelling does not include a reference to—
- (a) a reduction or increase effected under section 78 of the Rent Act 1977 (power of rent tribunal); or
  - (b) a variation which is made by the parties and has the effect of making the rent expressed to be payable under the contract the same as the rent for the dwelling which is entered in the register under section 79 of the Rent Act 1977.
- (4) In subsection (1) of section 81A of the Rent Act 1977 (cancellation of registration of rent relating to a restricted contract) paragraph (a) (no cancellation until two years have elapsed since the date of the entry) shall cease to have effect.
- (5) In this section “rent” has the same meaning as in Part V of the Rent Act 1977.

### **37 No further assured tenancies under Housing Act 1980**

- (1) A tenancy which is entered into on or after the commencement of this Act cannot be an assured tenancy for the purposes of sections 56 to 58 of the Housing Act 1980 (in this section referred to as a “1980 Act tenancy”).
- (2) In any case where—
  - (a) before the commencement of this Act, a tenant under a 1980 Act tenancy made an application to the court under section 24 of the Landlord and Tenant Act 1954 (for the grant of a new tenancy), and
  - (b) at the commencement of this Act the 1980 Act tenancy is continuing by virtue of that section or of any provision of Part IV of the said Act of 1954,section 1(3) of this Act shall not apply to the 1980 Act tenancy.
- (3) If, in a case falling within subsection (2) above, the court makes an order for the grant of a new tenancy under section 29 of the Landlord and Tenant Act 1954, that tenancy shall be an assured tenancy for the purposes of this Act.
- (4) In any case where—
  - (a) before the commencement of this Act a contract was entered into for the grant of a 1980 Act tenancy, but
  - (b) at the commencement of this Act the tenancy had not been granted,the contract shall have effect as a contract for the grant of an assured tenancy (within the meaning of this Act).
- (5) In relation to an assured tenancy falling within subsection (3) above or granted pursuant to a contract falling within subsection (4) above, Part I of Schedule 1 to this Act shall have effect as if it consisted only of paragraphs 11 and 12; and, if the landlord granting the tenancy is a fully mutual housing association, then, so long as that association remains the landlord under that tenancy (and under any statutory periodic tenancy which arises on the coming to an end of that tenancy), the said paragraph 12 shall have effect in relation to that tenancy with the omission of sub-paragraph (1)(h).
- (6) Any reference in this section to a provision of the Landlord and Tenant Act 1954 is a reference only to that provision as applied by section 58 of the Housing Act 1980.

### **38 Transfer of existing tenancies from public to private sector**

- (1) The provisions of subsection (3) below apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this Act if,—
  - (a) at that commencement or, if it is later, at the time it is entered into, the interest of the landlord is held by a public body (within the meaning of subsection (5) below); and
  - (b) at some time after that commencement, the interest of the landlord ceases to be so held.
- (2) The provisions of subsection (3) below also apply in relation to a tenancy which was entered into before, or pursuant to a contract made before, the commencement of this Act if,—
  - (a) at the commencement of this Act or, if it is later, at the time it is entered into, it is a housing association tenancy; and
  - (b) at some time after that commencement, it ceases to be such a tenancy.

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- (3) On and after the time referred to in subsection (1)(b) or, as the case may be, subsection (2)(b) above—
- (a) the tenancy shall not be capable of being a protected tenancy, a protected occupancy or a housing association tenancy;
  - (b) the tenancy shall not be capable of being a secure tenancy unless (and only at a time when) the interest of the landlord under the tenancy is (or is again) held by a public body; and
  - (c) paragraph 1 of Schedule 1 to this Act shall not apply in relation to it, and the question whether at any time thereafter it becomes (or remains) an assured tenancy shall be determined accordingly.
- (4) In relation to a tenancy under which, at the commencement of this Act or, if it is later, at the time the tenancy is entered into, the interest of the landlord is held by a new town corporation, within the meaning of section 80 of the Housing Act 1985, subsections (1) and (3) above shall have effect as if any reference in subsection (1) above to the commencement of this Act were a reference to—
- (a) the date on which expires the period of two years beginning on the day this Act is passed; or
  - (b) if the Secretary of State by order made by statutory instrument within that period so provides, such other date (whether earlier or later) as may be specified by the order for the purposes of this subsection.
- (5) For the purposes of this section, the interest of a landlord under a tenancy is held by a public body at a time when—
- (a) it belongs to a local authority, a new town corporation or an urban development corporation, all within the meaning of section 80 of the Housing Act 1985; or
  - (b) it belongs to a housing action trust established under Part III of this Act; or
  - (c) it belongs to the Development Board for Rural Wales; or
  - (d) it belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (6) In this section—
- (a) “housing association tenancy” means a tenancy to which Part VI of the Rent Act 1977 applies;
  - (b) “protected tenancy” has the same meaning as in that Act; and
  - (c) “protected occupancy” has the same meaning as in the Rent (Agriculture) Act 1976.

### **39 Statutory tenants: succession**

- (1) In section 2(1)(b) of the Rent Act 1977 (which introduces the provisions of Part I of Schedule 1 to that Act relating to statutory tenants by succession) after the words “statutory tenant of a dwelling-house” there shall be inserted “or, as the case may be, is entitled to an assured tenancy of a dwelling-house by succession”.
- (2) Where the person who is the original tenant, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in Part I of Schedule 4 to this Act.

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- (3) Where subsection (2) above does not apply but the person who is the first successor, within the meaning of Part I of Schedule 1 to the Rent Act 1977, dies after the commencement of this Act, that Part shall have effect subject to the amendments in paragraphs 5 to 9 of Part I of Schedule 4 to this Act.
- (4) In any case where the original occupier, within the meaning of section 4 of the Rent (Agriculture) Act 1976 (statutory tenants and tenancies) dies after the commencement of this Act, that section shall have effect subject to the amendments in Part II of Schedule 4 to this Act.
- (5) In any case where, by virtue of any provision of—
- (a) Part I of Schedule 1 to the Rent Act 1977, as amended in accordance with subsection (2) or subsection (3) above, or
  - (b) section 4 of the Rent (Agriculture) Act 1976, as amended in accordance with subsection (4) above,
- a person (in the following provisions of this section referred to as “the successor”) becomes entitled to an assured tenancy of a dwelling-house by succession, that tenancy shall be a periodic tenancy arising by virtue of this section.
- (6) Where, by virtue of subsection (5) above, the successor becomes entitled to an assured periodic tenancy, that tenancy is one—
- (a) taking effect in possession immediately after the death of the protected or statutory tenant or protected occupier (in the following provisions of this section referred to as “the predecessor”) on whose death the successor became so entitled;
  - (b) deemed to have been granted to the successor by the person who, immediately before the death of the predecessor, was the landlord of the predecessor under his tenancy;
  - (c) under which the premises which are let are the same dwelling-house as, immediately before his death, the predecessor occupied under his tenancy;
  - (d) under which the periods of the tenancy are the same as those for which rent was last payable by the predecessor under his tenancy;
  - (e) under which, subject to sections 13 to 15 above, the other terms are the same as those on which, under his tenancy, the predecessor occupied the dwelling-house immediately before his death; and
  - (f) which, for the purposes of section 13(2) above, is treated as a statutory periodic tenancy;
- and in paragraphs (b) to (e) above “under his tenancy”, in relation to the predecessor, means under his protected tenancy or protected occupancy or in his capacity as a statutory tenant.
- (7) If, immediately before the death of the predecessor, the landlord might have recovered possession of the dwelling-house under Case 19 in Schedule 15 to the Rent Act 1977, the assured periodic tenancy to which the successor becomes entitled shall be an assured shorthold tenancy (whether or not it fulfils the conditions in section 20(1) above).
- (8) If, immediately before his death, the predecessor was a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976, the assured periodic tenancy to which the successor becomes entitled shall be an assured agricultural occupancy (whether or not it fulfils the conditions in section 24(1) above).

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- (9) Where, immediately before his death, the predecessor was a tenant under a fixed term tenancy, section 6 above shall apply in relation to the assured periodic tenancy to which the successor becomes entitled on the predecessor's death subject to the following modifications—
- (a) for any reference to a statutory periodic tenancy there shall be substituted a reference to the assured periodic tenancy to which the successor becomes so entitled;
  - (b) in subsection (1) of that section, paragraph (a) shall be omitted and the reference in paragraph (b) to section 5(3)(e) above shall be construed as a reference to subsection (6)(e) above; and
  - (c) for any reference to the coming to an end of the former tenancy there shall be substituted a reference to the date of the predecessor's death.
- (10) If and so long as a dwelling-house is subject to an assured tenancy to which the successor has become entitled by succession, section 7 above and Schedule 2 to this Act shall have effect subject to the modifications in Part III of Schedule 4 to this Act; and in that Part "the predecessor" and "the successor" have the same meaning as in this section.

## CHAPTER VI

### GENERAL PROVISIONS

#### **40 Jurisdiction of county courts**

- (1) A county court shall have jurisdiction to hear and determine any question arising under any provision of—
- (a) Chapters I to III and V above, or
  - (b) sections 27 and 28 above,
- other than a question falling within the jurisdiction of a rent assessment committee by virtue of any such provision.
- (2) Subsection (1) above has effect notwithstanding that the damages claimed in any proceedings may exceed the amount which, for the time being, is the county court limit for the purposes of the County Courts Act 1984.
- (3) Where any proceedings under any provision mentioned in subsection (1) above are being taken in a county court, the court shall have jurisdiction to hear and determine any other proceedings joined with those proceedings, notwithstanding that, apart from this subsection, those other proceedings would be outside the court's jurisdiction.
- (4) If any person takes any proceedings under any provision mentioned in subsection (1) above in the High Court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court: and in such a case the taxing master shall have the same power of directing on what county court scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.
- (5) Subsection (4) above shall not apply where the purpose of taking the proceedings in the High Court was to enable them to be joined with any proceedings already



pending before that court (not being proceedings taken under any provision mentioned in subsection (1) above).

#### **41 Rent assessment committees: procedure and information powers**

- (1) In section 74 of the Rent Act 1977 (regulations made by the Secretary of State) at the end of paragraph (b) of subsection (1) (procedure of rent officers and rent assessment committees) there shall be added the words “whether under this Act or Part I of the Housing Act 1988”.
- (2) The rent assessment committee to whom a matter is referred under Chapter I or Chapter II above may by notice in the prescribed form served on the landlord or the tenant require him to give to the committee, within such period of not less than fourteen days from the service of the notice as may be specified in the notice, such information as they may reasonably require for the purposes of their functions.
- (3) If any person fails without reasonable excuse to comply with a notice served on him under subsection (2) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Where an offence under subsection (3) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### **42 Information as to determinations of rents**

- (1) The President of every rent assessment panel shall keep and make publicly available, in such manner as is specified in an order made by the Secretary of State, such information as may be so specified with respect to rents under assured tenancies and assured agricultural occupancies which have been the subject of references or applications to, or determinations by, rent assessment committees.
- (2) A copy of any information certified under the hand of an officer duly authorised by the President of the rent assessment panel concerned shall be receivable in evidence in any court and in any proceedings.
- (3) An order under subsection (1) above—
  - (a) may prescribe the fees to be charged for the supply of a copy, including a certified copy, of any of the information kept by virtue of that subsection; and
  - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **43 Powers of local authorities for purposes of giving information**

In section 149 of the Rent Act 1977 (which, among other matters, authorises local authorities to publish information for the benefit of landlords and tenants with respect

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to their rights and duties under certain enactments), in subsection (1)(a) after subparagraph (iv) there shall be inserted—

“(v) Chapters I to III of Part I of the Housing Act 1988”.

#### **44 Application to Crown Property**

- (1) Subject to paragraph 11 of Schedule 1 to this Act and subsection (2) below, Chapters I to IV above apply in relation to premises in which there subsists, or at any material time subsisted, a Crown interest as they apply in relation to premises in relation to which no such interest subsists or ever subsisted.
- (2) In Chapter IV above—
  - (a) sections 27 and 28 do not bind the Crown; and
  - (b) the remainder binds the Crown to the extent provided for in section 10 of the Protection from Eviction Act 1977.
- (3) In this section “Crown interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall, or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.
- (4) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, then, for the purposes of Chapters I to IV above, the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.

#### **45 Interpretation of Part I**

- (1) In this Part of this Act, except where the context otherwise requires,—
  - “dwelling-house” may be a house or part of a house;
  - “fixed term tenancy” means any tenancy other than a periodic tenancy;
  - “fully mutual housing association” has the same meaning as in Part I of the Housing Associations Act 1985;
  - “landlord” includes any person from time to time deriving title under the original landlord and also includes, in relation to a dwelling-house, any person other than a tenant who is, or but for the existence of an assured tenancy would be, entitled to possession of the dwelling-house;
  - “let” includes “sub-let”;
  - “prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument;
  - “rates” includes water rates and charges but does not include an owner’s drainage rate, as defined in section 63(2)(a) of the Land Drainage Act 1976;
  - “secure tenancy” has the meaning assigned by section 79 of the Housing Act 1985;
  - “statutory periodic tenancy” has the meaning assigned by section 5(7) above;
  - “tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy; and
  - “tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

- (2) Subject to paragraph 11 of Schedule 2 to this Act, any reference in this Part of this Act to the beginning of a tenancy is a reference to the day on which the tenancy is entered into or, if it is later, the day on which, under the terms of any lease, agreement or other document, the tenant is entitled to possession under the tenancy.
- (3) Where two or more persons jointly constitute either the landlord or the tenant in relation to a tenancy, then, except where this Part of this Act otherwise provides, any reference to the landlord or to the tenant is a reference to all the persons who jointly constitute the landlord or the tenant, as the case may require.
- (4) For the avoidance of doubt, it is hereby declared that any reference in this Part of this Act (however expressed) to a power for a landlord to determine a tenancy does not include a reference to a power of re-entry or forfeiture for breach of any term or condition of the tenancy.
- (5) Regulations under subsection (1) above may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

## PART II

### HOUSING ASSOCIATIONS

#### *Housing for Wales*

#### **46 Housing for Wales**

- (1) There shall be a body known as Housing for Wales.
- (2) Schedule 5 to this Act shall have effect with respect to the constitution and proceedings of, and other matters relating to, Housing for Wales.
- (3) Housing for Wales shall have the functions conferred on it by the Housing Associations Act 1985 (in this Part referred to as “the 1985 Act”) as amended in accordance with section 59 below.
- (4) All property in Wales which, immediately before the day appointed for the coming into force of this section, is held by the Housing Corporation shall on that day be transferred to and vest in Housing for Wales.
- (5) Any question whether any property has been transferred to Housing for Wales by virtue of subsection (4) above shall be determined by the Secretary of State.

#### **47 Transfer to Housing for Wales of regulation etc. of housing associations based in Wales**

- (1) Every registered housing association which, immediately before the appointed day,—
  - (a) is a society registered under the 1965 Act and has its registered office for the purposes of that Act in Wales, or
  - (b) is a registered charity and has its address for the purposes of registration by the Charity Commissioners in Wales,shall on the appointed day cease to be registered in the register maintained by the Housing Corporation under section 3 of the 1985 Act and, by virtue of this subsection,

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- be deemed to be registered in the register maintained by Housing for Wales under that section.
- (2) Not later than one month before the appointed day, the Secretary of State shall notify every registered housing association which appears to him to be one which on that day will be deemed to be registered as mentioned in subsection (1) above of that fact and of the effect of that subsection.
- (3) As soon as may be after the appointed day, Housing for Wales shall give notice of any registration effected by virtue of subsection (1) above,—
- (a) if the housing association is a registered charity, to the Charity Commissioners; and
  - (b) if the housing association is a society registered under the 1965 Act, to the Chief Registrar of friendly societies.
- (4) All rights, liabilities and obligations to which, immediately before the appointed day, the Housing Corporation was entitled or subject in relation to—
- (a) any registered housing association to which subsection (1) above applies, and
  - (b) land in Wales held by an unregistered housing association,
- shall on that day become rights, liabilities and obligations of Housing for Wales.
- (5) Any question whether any rights, liabilities or obligations have become rights, liabilities or obligations of Housing for Wales by virtue of subsection (4) above shall be determined by the Secretary of State.
- (6) In this section—
- “the 1965 Act” means the Industrial and Provident Societies Act 1965; and
- “the appointed day” means the day appointed for the coming into force of this section.

### *Registration and issue of guidance*

#### **48 Permissible purposes, objects or powers**

- (1) For subsections (3) and (4) of section 4 (eligibility for registration) of the 1985 Act there shall be substituted the following subsections—
- “(3) The permissible additional purposes or objects are—
- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of the association’s residents, either exclusively or together with other persons;
  - (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease or on shared ownership terms;
  - (c) constructing houses to be disposed of on shared ownership terms;
  - (d) managing houses which are held on leases or other lettings (not being houses falling within subsection (2)(a) or (b)) or blocks of flats;
  - (e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;

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- (f) encouraging and giving advice on the formation of other housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing.
- (4) A housing association shall not be ineligible for registration by reason only that its powers include power—
- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (2) or (3);
  - (b) to repair, improve or convert any commercial premises acquired as mentioned in paragraph (a) or to carry on, for a limited period, any business so acquired;
  - (c) to repair or improve houses, or buildings in which houses are situated, after the tenants have exercised, or claimed to exercise, acquisition rights;
  - (d) to acquire houses to be disposed of at a discount to tenants to whom section 58 of the Housing Act 1988 applies (tenants of charitable housing associations etc.).
- (5) In this section—
- “acquisition right” means—
    - (a) in England and Wales, the right to buy or the right to be granted a shared ownership lease under Part V of the Housing Act 1985;
    - (b) in Scotland, a right to purchase under section 61 of the Housing (Scotland) Act 1987;
  - “block of flats” means a building—
    - (a) containing two or more flats which are held on leases or other lettings; and
    - (b) occupied or intended to be occupied wholly or mainly for residential purposes;
  - “disposed of on shared ownership terms” means—
    - (a) in England and Wales, disposed of on a shared ownership lease;
    - (b) in Scotland, disposed of under a shared ownership agreement;
  - “letting” includes the grant—
    - (a) in England and Wales, of a licence to occupy;
    - (b) in Scotland, of a right or permission to occupy;
  - “residents”, in relation to a housing association, means the persons occupying the houses or hostels provided or managed by the association;
  - “voluntary organisation” means an organisation whose activities are not carried on for profit.”
- (2) The Secretary of State may by order made by statutory instrument amend the subsections substituted by subsection (1) above, but not so as to restrict or limit the permissible purposes, objects or powers.
- (3) An order under subsection (2) above may contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.

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- (4) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**49 Guidance as to management of accommodation by registered housing associations**

After section 36 of the 1985 Act there shall be inserted the following section—

**“36A Issue of guidance by the Corporation**

- (1) In accordance with the provisions of this section, the Corporation may issue guidance with respect to the management of housing accommodation by registered housing associations and, in considering under the preceding provisions of this Part whether action needs to be taken to secure the proper management of an association’s affairs or whether there has been mismanagement, the Corporation may have regard (among other matters) to the extent to which any such guidance is being or has been followed.
- (2) Guidance issued under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered housing associations.
- (3) Without prejudice to the generality of subsections (1) and (2), guidance issued under this section may relate to—
- (a) the housing demands for which provision should be made and the means of meeting those demands;
  - (b) the allocation of housing accommodation between individuals;
  - (c) the terms of tenancies and the principles upon which the levels of rent should be determined;
  - (d) standards of maintenance and repair and the means of achieving these standards; and
  - (e) consultation and communication with tenants.
- (4) Guidance issued under this section may be revised or withdrawn but, before issuing or revising any guidance under this section, the Corporation—
- (a) shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and
  - (b) shall submit a draft of the proposed guidance or, as the case may be, the proposed revision to the Secretary of State for his approval.
- (5) If the Secretary of State gives his approval to a draft submitted to him under subsection (4)(b), the Corporation shall issue the guidance or, as the case may be, the revision concerned in such manner as the Corporation considers appropriate for bringing it to the notice of the housing associations concerned.”

### *Grants: functions of Corporation*

#### **50 Housing association grants**

- (1) The Housing Corporation and Housing for Wales may make grants to registered housing associations in respect of expenditure incurred or to be incurred by them in connection with housing activities; and any reference in the following provisions of this section to “the Corporation” shall be construed accordingly.
- (2) As respects grants under this section the following, namely—
  - (a) the procedure to be followed in relation to applications for grant;
  - (b) the circumstances in which grant is or is not to be payable;
  - (c) the method for calculating, and any limitations on, the amount of grant; and
  - (d) the manner in which, and time or times at which, grant is to be paid,shall be such as may be specified by the Corporation, acting in accordance with such principles as it may from time to time determine.
- (3) In making a grant under this section, the Corporation may provide that the grant is conditional on compliance by the association with such conditions as it may specify.
- (4) On such terms as it may, with the appropriate approval, specify, the Corporation may appoint a local housing authority which is willing to do so to act as its agent in connection with the assessment and payment of grant under this section; and, where such an appointment is made, the local housing authority shall act as such an agent in accordance with the terms of their appointment.
- (5) In subsection (4) above, “the appropriate approval” means the approval of the Secretary of State given with the consent of the Treasury.
- (6) Where—
  - (a) a grant under this section is payable to an association, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association, or trustees for some other such association,this section (including this subsection) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under subsection (7) below, were payable to that other association.
- (7) The proportion referred to in subsection (6) above is that which, in the circumstances of the particular case—
  - (a) the Corporation, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate; or
  - (b) the Corporation may determine to be appropriate.
- (8) Where one of the associations mentioned in subsection (6) above is registered by the Housing Corporation and another is registered by Housing for Wales, the determination mentioned in subsection (7) above shall be such as shall be agreed between the two Corporations.

#### **51 Revenue deficit grants**

- (1) The Housing Corporation or, as the case may be, Housing for Wales may make a grant to a registered housing association if—

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- (a) in relation to all housing activities of the association,
  - (b) in relation to housing activities of the association of a particular description, or
  - (c) in relation to particular housing activities of the association,
- the association's expenditure as calculated by the Corporation concerned for any period (including a period which is wholly or partly a future period) exceeds its income as so calculated for that period.
- (2) In calculating an association's expenditure or income for the purposes of subsection (1) above, the Housing Corporation or, as the case may be, Housing for Wales—
    - (a) shall act in accordance with such principles as it may from time to time determine; and
    - (b) may act on such assumptions (whether or not borne out or likely to be borne out by events) as it may from time to time determine.
  - (3) Subsections (2) and (3) of section 50 above shall apply for the purposes of this section as they apply for the purposes of that section.

## **52 Recovery etc. of grants**

- (1) Where a grant to which this section applies, that is to say—
  - (a) a grant under section 50 or 51 above, or
  - (b) a grant under section 41 of the 1985 Act or any enactment replaced by that section, or
  - (c) a grant under section 2(2) of the Housing (Scotland) Act 1988,
 has been made to a registered housing association, the powers conferred by subsection (2) below are exercisable in such events (including the association not complying with any conditions) as the Corporation may from time to time determine (in this section referred to as "relevant events").
- (2) The Corporation, acting in accordance with such principles as it may from time to time determine, may—
  - (a) reduce the amount of, or of any payment in respect of, the grant;
  - (b) suspend or cancel any instalment of the grant; or
  - (c) direct the association to pay to it an amount equal to the whole, or such proportion as it may specify, of the amount of any payment made to the association in respect of the grant,
 and a direction under paragraph (c) above requiring the payment of any amount may also require the payment of interest on that amount in accordance with subsections (7) to (9) below.
- (3) Where, after a grant to which this section applies has been made to an association, a relevant event occurs, the association shall notify the Corporation and, if so required by written notice of the Corporation, shall furnish it with such particulars of and information relating to the event as are specified in the notice.
- (4) Where a grant to which this section applies (other than one falling within subsection (1) (c) above) has been made to an association, the Chief Land Registrar may furnish the Corporation with such particulars and information as it may reasonably require for the purpose of ascertaining whether a relevant event has occurred; but this subsection shall cease to have effect on the day appointed under section 3(2) of the Land Registration Act 1988 for the coming into force of that Act.



- (5) Where—
- (a) a grant to which this section applies has been made to an association, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association, or trustees for some other such association,
- this section (including this subsection) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under subsection (6) below, had been made to that other association.
- (6) The proportion referred to in subsection (5) above is that which, in the circumstances of the particular case,—
- (a) the Corporation, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate; or
  - (b) the Corporation may determine to be appropriate.
- (7) A direction under subsection (2)(c) above requiring the payment of interest on the amount directed to be paid to the Corporation shall specify, in accordance with subsection (9) below,—
- (a) the rate or rates of interest (whether fixed or variable) which is or are applicable;
  - (b) the date from which interest is payable, being not earlier than the date of the relevant event; and
  - (c) any provision for suspended or reduced interest which is applicable.
- (8) In subsection (7)(c) above—
- (a) the reference to a provision for suspended interest is a reference to a provision whereby, if the amount which is directed to be paid to the Corporation is paid before a date specified in the direction, no interest will be payable for any period after the date of the direction; and
  - (b) the reference to a provision for reduced interest is a reference to a provision whereby, if that amount is so paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.
- (9) The matters specified in a direction as mentioned in paragraphs (a) to (c) of subsection (7) above shall be either—
- (a) such as the Corporation, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
  - (b) such as the Corporation may determine to be appropriate in the particular case.

## **53 Determinations under Part II**

- (1) A general determination may either—
- (a) make the same provision for all cases; or
  - (b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;
- and for the purposes of this subsection descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.

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- (2) The Corporation shall not make a determination under the foregoing provisions of this Part except with the approval of the Secretary of State given, in the case of a general determination, with the consent of the Treasury.
- (3) Before making a general determination, the Corporation shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and after making such a determination, the Corporation shall publish the determination in such manner as it considers appropriate for bringing the determination to the notice of the associations concerned.
- (4) In this section “general determination” means a determination under any provision of sections 50 to 52 above, other than a determination relating solely to a particular case.

*Grants: functions of Secretary of State*

**54 Tax relief grants**

- (1) If a housing association makes a claim to the Secretary of State in respect of a period and satisfies him that throughout the period it was a housing association to which this section applies and its functions either—
  - (a) consisted exclusively of the function of providing or maintaining housing accommodation for letting or hostels and activities incidental to that function, or
  - (b) included that function and activities incidental to that function,
 the Secretary of State may make grants to the association for affording relief from tax chargeable on the association.
- (2) This section applies to a housing association at any time if, at that time—
  - (a) it is registered;
  - (b) it does not trade for profit; and
  - (c) it is not approved for the purposes of section 488 of the Income and Corporation Taxes Act 1988 (tax treatment of co-operative housing associations).
- (3) References in this section to tax chargeable on an association are to income tax (other than income tax which the association is entitled to deduct on making any payment) and corporation tax.
- (4) A grant under this section may be made—
  - (a) in a case falling within subsection (1)(a) above, for affording relief from any tax chargeable on the association for the period in respect of which the claim is made; and
  - (b) in a case falling within subsection (1)(b) above, for affording relief from such part of any tax so chargeable as the Secretary of State considers appropriate having regard to the other functions of the association;
 and in any case shall be of such amount, shall be made at such times and shall be subject to such conditions as the Secretary of State thinks fit.
- (5) The conditions may include conditions for securing the repayment in whole or in part of a grant made to an association—
  - (a) in the event of tax in respect of which it was made being found not to be chargeable; or

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- (b) in such other events (including the association beginning to trade for profit) as the Secretary of State may determine.
- (6) A claim under this section shall be made in such manner and shall be supported by such evidence as the Secretary of State may direct.
- (7) The Commissioners of Inland Revenue and their officers may disclose to the Secretary of State such particulars as he may reasonably require for determining whether a grant should be made on a claim or whether a grant should be repaid or the amount of such grant or repayment.
- (8) In this section “letting” includes—
  - (a) in England and Wales, the grant of a shared ownership lease or a licence to occupy;
  - (b) in Scotland, disposal under a shared ownership agreement or the grant of a right or permission to occupy.

## **55 Surplus rental income**

- (1) An association to which this section applies, that is to say, a registered housing association which has at any time received a payment in respect of—
  - (a) a grant under section 50 above, or
  - (b) a grant under section 41 of the 1985 Act or any enactment replaced by that section, or
  - (c) a grant under section 2(2) of the Housing (Scotland) Act 1988,(in this section referred to as a “relevant grant”) shall show separately in its accounts for any period ending after the coming into force of this section the surpluses arising from increased rental income during that period from such housing activities to which the grant relates as the Secretary of State may from time to time determine.
- (2) The surpluses shall be shown by each association in a fund to be known as its rent surplus fund; and the method of constituting that fund and of showing it in the association’s accounts shall be as required by order of the Secretary of State under section 24 of the 1985 Act (general requirements as to accounts) and, notwithstanding anything in subsection (5) of that section, such an order may make provision applying to any period to which this section applies.
- (3) The surpluses in respect of a period shall be calculated in such manner as the Secretary of State may from time to time determine; and a determination under this subsection may provide that, in calculating surpluses, an association shall act on such assumptions (whether or not borne out or likely to be borne out by events) as may be specified in the determination.
- (4) A determination under subsection (1) or (3) above may—
  - (a) make the same provision for all cases; or
  - (b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;and for the purposes of this subsection descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.

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- (5) Before making a determination under subsection (1) or (3) above, the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate; and after making such a determination, the Secretary of State shall publish it in such manner as he considers appropriate for bringing it to the notice of the associations concerned.
- (6) The Secretary of State may from time to time give notice to an association to which this section applies requiring it to pay to him, with interest if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its rent surplus fund at the end of a period of account.
- (7) Any interest demanded by such a notice is payable—
- (a) at the rate or rates (whether fixed or variable) previously determined by the Secretary of State, with the consent of the Treasury, for housing associations generally and published by him or, if no such determination has been made, at the rate or rates (whether fixed or variable) specified with the consent of the Treasury in the notice; and
  - (b) either from the date of the notice or from such other date, not earlier than the end of the period of account, as may be specified in the notice.
- (8) A notice under subsection (6) above demanding interest may with the consent of the Treasury provide that, if the sums required by the notice to be paid to the Secretary of State are paid before a date specified in the notice—
- (a) no interest shall be payable for any period after the date of the notice; and
  - (b) any interest payable shall be payable at a rate or rates lower than the rate or rates given by subsection (7) above.
- (9) The Secretary of State may from time to time give notice—
- (a) to all associations to which this section applies,
  - (b) to associations to which this section applies of a particular description, or
  - (c) to particular associations to which this section applies,
- requiring them to furnish him with such information as he may reasonably require in connection with the exercise of his functions under this section; and a notice under paragraph (a) or (b) above may be given by publication in such manner as the Secretary of State considers appropriate for bringing it to the attention of the associations concerned.
- (10) Where—
- (a) an association has received a payment in respect of a relevant grant, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association, or trustees for some other such association,
- this section (including this subsection) shall have effect in relation to periods after that time as if the payment, or such proportion of it as may be determined by the Secretary of State to be appropriate, had been made to that other association.

*Miscellaneous and supplemental*

**56 Duty of Housing Corporation and Housing for Wales in relation to racial discrimination**

At the end of section 75 of the 1985 Act (general functions of the Corporation) there shall be added the following subsection—

“(5) Section 71 of the Race Relations Act 1976 (local authorities: general statutory duty) shall apply to the Corporation as it applies to a local authority.”

**57 Delegation of certain functions**

The Secretary of State may delegate to the Corporation, to such extent and subject to such conditions as he may specify, any of his functions under—

- (a) section 54 or 55 above;
- (b) sections 53 (recoupment of surplus rental income), 54 to 57 (deficit grants) and 62 (grants for affording tax relief) of the 1985 Act, so far as continuing in force after the passing of this Act; and
- (c) Parts I and II of Schedule 5 to the 1985 Act (residual subsidies);

and where he does so, references to him in those provisions shall be construed accordingly.

**58 Application of Housing Acts to certain transactions**

- (1) This section applies to any tenant of a publicly-funded house who, but for paragraph 1 of Schedule 5 to the Housing Act 1985 (no right to buy where landlord a charitable housing trust or housing association), would have the right to buy under Part V of the Housing Act 1985.
- (2) A house is publicly-funded for the purposes of subsection (1) above if a grant under section 50 above, or a grant under section 41 of the 1985 Act or any enactment replaced by that section, has been paid in respect of a project which included—
  - (a) the acquisition of the house;
  - (b) the acquisition of a building and the provision of the house by means of the conversion of the building; or
  - (c) the acquisition of land and the construction of the house on the land.
- (3) Where a registered housing association contracts for the acquisition of a house and, without taking the conveyance, grant or assignment, disposes of its interest at a discount to a tenant to whom this section applies, the provisions mentioned in subsection (4) below shall have effect as if the association first acquired the house and then disposed of it to the tenant.
- (4) The said provisions are—
  - section 4 of the 1985 Act (eligibility for registration);
  - section 8 of that Act (disposal of land by registered housing associations);
  - section 9 of that Act (consent of Corporation to disposals);
  - section 79(2) of that Act (power of Corporation to lend to person acquiring interest from registered housing association);
  - Schedule 2 to that Act (covenants for repayments of discount on early disposal and restricting disposal of houses in National Parks etc.); and

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section 130 of the Housing Act 1985 (reduction of discount on exercise of right to buy where previous discount given).

## **59 Interpretation of Part II and amendments of Housing Associations Act 1985**

- (1) In this Part of this Act—
  - (a) “the 1985 Act” means the Housing Associations Act 1985; and
  - (b) except as provided in section 50(1) above, “the Corporation” and other expressions used in this Part have the same meaning as in the 1985 Act.
- (2) The 1985 Act shall have effect subject to the amendments in Schedule 6 to this Act, being amendments—
  - (a) extending the supervisory powers conferred by Part I of the 1985 Act;
  - (b) making provision incidental to and consequential upon the establishment by this Part of this Act of Housing for Wales and the establishment by the Housing (Scotland) Act 1988 of Scottish Homes;
  - (c) making provision incidental to and consequential upon other provisions of this Part of this Act and the provisions of Part IV of this Act; and
  - (d) varying the grounds on which the Secretary of State may remove a member of the Housing Corporation from office.
- (3) In Schedule 6 to this Act,—
  - (a) Part I contains amendments of Part I of the 1985 Act, including amendments which reproduce the effect of amendments made by Schedule 3 to the Housing (Scotland) Act 1988 with respect to Scottish Homes; and
  - (b) Parts II and III contain amendments of Parts II and III respectively of the 1985 Act.
- (4) Without prejudice to the operation of Schedule 3 to the Housing (Scotland) Act 1988 in relation to anything done before the day appointed for the coming into force of this section, for the purpose of giving effect to the amendments in Part I of Schedule 6 to this Act, the said Schedule 3 shall be deemed never to have come into force.

## **PART III**

### HOUSING ACTION TRUST AREAS

#### *Areas and trusts*

## **60 Housing action trust areas**

- (1) Subject to section 61 below, the Secretary of State may by order designate an area of land for which, in his opinion, it is expedient that a corporation, to be known as a housing action trust, having the functions specified in this Part of this Act, should be established.
- (2) The area designated by an order under this section may comprise two or more parcels of land which—
  - (a) need not be contiguous; and
  - (b) need not be in the district of the same local housing authority.

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- (3) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) In deciding whether to make an order under this section designating any area of land, the Secretary of State shall have regard to such matters as he thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, among the matters to which the Secretary of State may have regard in deciding whether to include a particular area of land in an order under this section, are—
  - (a) the extent to which the housing accommodation in the area as a whole is occupied by tenants or owner-occupiers and the extent to which it is local authority housing;
  - (b) the physical state and design of the housing accommodation in the area and any need to repair or improve it;
  - (c) the way in which the local authority housing in the area is being managed; and
  - (d) the living conditions of those who live in the area and the social conditions and general environment of the area.
- (6) An area designated by an order under this section shall be known as a housing action trust area and in the following provisions of this Part of this Act—
  - (a) such an area is referred to as a “designated area”; and
  - (b) an order under this section is referred to as a “designation order”.

## **61 Consultation and publicity**

- (1) Before making a designation order, the Secretary of State shall consult every local housing authority any part of whose district is to be included in the proposed designated area.
- (2) Where the Secretary of State is considering a proposal to make a designation order, he shall use his best endeavours to secure that notice of the proposal is given to all tenants of houses in the area proposed to be designated who are either secure tenants or tenants of such description as may be prescribed by regulations.
- (3) After having taken the action required by subsection (2) above, the Secretary of State shall either—
  - (a) make arrangements for such independent persons as appear to him to be appropriate to conduct, in such manner as seems best to them, a ballot or poll of the tenants who have been given notice of the proposal as mentioned in that subsection with a view to establishing their opinions about the proposal to make a designation order; or
  - (b) if it seems appropriate to him to do so, arrange for the conduct of a ballot or poll of those tenants in such manner as appears to him best suited to establish their opinions about the proposal.
- (4) If it appears from a ballot or poll conducted as mentioned in subsection (3) above that a majority of the tenants who, on that ballot or poll, express an opinion about the proposal to make the designation order are opposed to it, the Secretary of State shall not make the order proposed.

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- (5) The power to make regulations under subsection (2) above shall be exercisable by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Consultation undertaken before the passing of this Act shall constitute as effective compliance with subsection (1) above as if undertaken after that passing.

## **62 Housing action trusts**

- (1) Subject to subsection (2) below, where the Secretary of State makes a designation order, he shall, in that order or by a separate order, either—
  - (a) establish a housing action trust for the designated area; or
  - (b) specify as the housing action trust for the designated area a housing action trust already established for another designated area.
- (2) Such a separate order as is referred to in subsection (1) above shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Subject to subsection (4) below, a housing action trust shall be a body corporate by such name as may be prescribed by the order establishing it.
- (4) Where the Secretary of State makes the provision referred to in subsection (1)(b) above,—
  - (a) the housing action trust specified in the order shall, by virtue of the order, be treated as established for the new designated area (as well as for any designated area for which it is already established); and
  - (b) the order may alter the name of the trust to take account of the addition of the new designated area.
- (5) Schedule 7 to this Act shall have effect with respect to the constitution of housing action trusts and Schedule 8 to this Act shall have effect with respect to their finances.
- (6) It is hereby declared that a housing action trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and that the trust's property is not to be regarded as the property of, or property held on behalf of, the Crown.
- (7) At the end of section 4 of the Housing Act 1985 (descriptions of authority) there shall be added—
  - “(f) “housing action trust” means a housing action trust established under Part III of the Housing Act 1988”; and at the end of section 14 of the Rent Act 1977 (landlord's interest belonging to local authority etc.) there shall be added—
  - “(h) a housing action trust established under Part III of the Housing Act 1988”.

## **63 Objects and general powers of housing action trusts**

- (1) The primary objects of a housing action trust in relation to the designated area for which it is established shall be—
  - (a) to secure the repair or improvement of housing accommodation for the time being held by the trust;



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- (b) to secure the proper and effective management and use of that housing accommodation;
  - (c) to encourage diversity in the interests by virtue of which housing accommodation in the area is occupied and, in the case of accommodation which is occupied under tenancies, diversity in the identity of the landlords; and
  - (d) generally to secure or facilitate the improvement of living conditions in the area and the social conditions and general environment of the area.
- (2) Without prejudice to subsection (1) above, a housing action trust may—
- (a) provide and maintain housing accommodation; and
  - (b) facilitate the provision of shops, advice centres and other facilities for the benefit of the community or communities who live in the designated area.
- (3) For the purpose of achieving its objects and exercising the powers conferred on it by subsection (2) above, a housing action trust may—
- (a) acquire, hold, manage, reclaim and dispose of land and other property;
  - (b) carry out building and other operations;
  - (c) seek to ensure the provision of water, electricity, gas, sewerage and other services; and
  - (d) carry on any business or undertaking;
- and may generally do anything necessary or expedient for the purposes of those objects and powers or for purposes incidental thereto.
- (4) For the avoidance of doubt it is hereby declared that subsection (3) above relates only to the capacity of a housing action trust as a statutory corporation; and nothing in this section authorises such a trust to disregard any enactment or rule of law.
- (5) Section 71 of the Race Relations Act 1976 (local authorities: general statutory duty) shall apply to a housing action trust as it applies to a local authority.
- (6) A transaction between any person and a housing action trust shall not be invalidated by reason of any failure by the trust to observe the objects in subsection (1) above or the requirement that the trust shall exercise the powers conferred by subsections (2) and (3) above for the purpose referred to in that subsection.

#### **64 The housing action trust's proposals for its area**

- (1) As soon as practicable after a housing action trust has been established for a designated area, the trust shall prepare a statement of its proposals with regard to the exercise of its functions in the area.
- (2) The trust shall consult every local housing authority or county council, any part of whose area lies within the designated area, with regard to the proposals contained in the statement prepared under subsection (1) above.
- (3) A housing action trust shall take such steps as it considers appropriate to secure—
- (a) that adequate publicity is given in the designated area to the proposals contained in the statement prepared under subsection (1) above;
  - (b) that those who live in the designated area are made aware that they have an opportunity to make, within such time as the trust may specify, representations to the trust with respect to those proposals; and

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- (c) that those who live in the designated area are given an adequate opportunity of making such representations;  
and the trust shall consider any such representations as may be made within the time specified.
- (4) As soon as may be after a housing action trust has complied with the requirements of subsections (1) to (3) above it shall send to the Secretary of State a copy of the statement prepared under subsection (1) above together with a report of—
  - (a) the steps the trust has taken to consult as mentioned in subsection (2) above and to secure the matters referred to in subsection (3) above; and
  - (b) the consideration it has given to points raised in the course of consultation and to representations received.
- (5) At such times as a housing action trust considers appropriate or as it may be directed by the Secretary of State, the trust shall prepare a further statement of its proposals with regard to the exercise of its functions in its area; and subsections (2) to (4) above shall again apply as they applied in relation to the first statement.

### *Functions*

## **65 Housing action trust as housing authority etc**

- (1) If the Secretary of State so provides by order, in a designated area or, as the case may be, in such part of the area as may be specified in the order, the housing action trust for the area shall have such of the functions described in subsection (2) below as may be so specified.
- (2) The functions referred to in subsection (1) above are—
  - (a) the functions conferred on a local housing authority by Parts II, VI, VII and IX to XII and XVI of the Housing Act 1985 and section 3(1) of the Chronically Sick and Disabled Persons Act 1970;
  - (b) the functions conferred by Part II of the Housing Associations Act 1985 on a local authority, within the meaning of that Act; and
  - (c) the functions conferred by sections 39 to 41 of the Land Compensation Act 1973 on the authority which is “the relevant authority” for the purposes of section 39 of that Act.
- (3) As respects the designated area or part thereof to which an order under this section applies, on the coming into force of the order, any function conferred on a housing action trust by the order shall, according to the terms of the order, be exercisable either—
  - (a) by the trust instead of by the authority by which, apart from the order, the function would be exercisable; or
  - (b) by the trust concurrently with that authority.
- (4) Any enactment under which a housing action trust is to exercise a function by virtue of an order under this section shall have effect—
  - (a) in relation to the trust, and
  - (b) where the trust is to have the function concurrently with another authority, in relation to that authority,
 subject to such modifications (if any) as may be specified in the order.

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- (5) Where a housing action trust is to exercise functions conferred on a local housing authority by any of Parts VI, VII, IX and XI of the Housing Act 1985, section 36 of the Local Government Act 1974 (recovery by local authorities of establishment charges) shall apply to the housing action trust as if it were a local authority within the meaning of that section.
- (6) Such (if any) of the provisions of Parts XVII and XVIII of the Housing Act 1985 (compulsory purchase, land acquisition and general provisions) as may be specified in an order under this section shall have effect in relation to a housing action trust subject to such modifications as may be specified in the order.
- (7) An order under this section—
  - (a) may contain such savings and transitional and supplementary provisions as appear to the Secretary of State to be appropriate; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **66 Planning control**

- (1) A housing action trust may submit to the Secretary of State proposals for the development of land within its designated area and the Secretary of State, after consultation with the local planning authority within whose area the land is situated and with any other local authority which appears to him to be concerned, may approve any such proposals either with or without modification.
- (2) Without prejudice to the generality of the powers conferred by section 24 of the 1971 Act, a special development order made by the Secretary of State under that section with respect to a designated area may grant permission for any development of land in accordance with proposals approved under subsection (1) above, subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the local planning authority), as may be specified in the order.
- (3) The Secretary of State shall give to a housing action trust such directions with regard to the disposal of land held by it and with respect to the development by it of such land as appear to him to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historical interest and, in particular, of any buildings included in any list compiled or approved or having effect as if compiled or approved under section 54(1) of the 1971 Act (which relates to the compilation or approval by the Secretary of State of lists of buildings of special architectural or historical interest).
- (4) Any reference in this section to the local planning authority,—
  - (a) in relation to land in Greater London or a metropolitan county, is a reference to the authority which is the local planning authority as ascertained in accordance with section 1 of the 1971 Act; and
  - (b) in relation to other land, is a reference to the district planning authority and also (in relation to proposals for any development which is a county matter, as defined in paragraph 32 of Schedule 16 to the Local Government Act 1972) to the county planning authority.

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## **67 Housing action trust as planning authority**

- (1) If the Secretary of State so provides by order, for such purposes of Part III of the 1971 Act and in relation to such kinds of development as may be specified in the order, a housing action trust shall be the local planning authority for the whole or such part as may be so specified of its designated area in place of any authority which would otherwise be the local planning authority.
- (2) An order under subsection (1) above may provide—
  - (a) that any enactment relating to local planning authorities shall not apply to the trust; and
  - (b) that any such enactment which applies to the trust shall apply to it subject to such modifications as may be specified in the order.
- (3) An order made by the Secretary of State may provide—
  - (a) that, subject to any modifications specified in the order, a housing action trust specified in the order shall have, in the whole or any part of its designated area and in place of any authority (except the Secretary of State) which would otherwise have them, such of the functions conferred by Parts IV, V and XV of the 1971 Act as may be so specified; and
  - (b) that such of the provisions of Part IX and sections 212 and 214 of the 1971 Act as are mentioned in the order shall have effect, in relation to the housing action trust specified in the order and to land in the trust's area, subject to the modifications there specified.
- (4) An order under subsection (3) above may provide that, for the purposes of any of the provisions specified in the order, any enactment relating to local planning authorities shall apply to the housing action trust specified in the order subject to such modifications as may be so specified.
- (5) In relation to a housing action trust which, by virtue of an order under subsection (1) above, is the local planning authority for the whole or part of its area, section 270 of the 1971 Act (application to local planning authorities of provisions as to planning control and enforcement) shall have effect for the purposes of Part III of the 1971 Act prescribed by that order, and in relation to the kinds of development so prescribed, as if—
  - (a) in subsection (1) the reference to the development by local authorities of land in respect of which they are the local planning authorities included a reference to the development by the trust of land in respect of which it is the local planning authority;
  - (b) in subsection (2),—
    - (i) in paragraph (a) for the words “such an authority” there were substituted “housing action trust” and for the words “local planning authority” there were substituted “housing action trust”; and
    - (ii) in paragraph (b) for the words “local planning authority” there were substituted “housing action trust”.
- (6) If, by virtue of an order under subsection (1) above, a housing action trust is the local planning authority in relation to all kinds of development for the whole or part of its area, it shall be the hazardous substances authority for that area or, as the case may be, that part for the purposes of the 1971 Act.
- (7) Any power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either

House of Parliament; and any such order shall have effect subject to such savings and transitional provisions as may be specified in the order.

## **68 Public health**

- (1) The Secretary of State may by order provide that, in relation to premises comprising or consisting of housing accommodation, a housing action trust shall have in its designated area (or in such part of its designated area as may be specified in the order) the functions conferred on a local authority—
  - (a) by sections 83 and 84 of the Public Health Act 1936 (the “1936 Act”) and section 36 of the Public Health Act 1961 (all of which relate to filthy or verminous premises or articles);
  - (b) by any enactment contained in Part III (nuisances and offensive trades) of the 1936 Act;
  - (c) by so much of Part XII of the 1936 Act as relates to any of the enactments mentioned in paragraphs (a) and (b) above; and
  - (d) by Part I of the Prevention of Damage by Pests Act 1949 (rats and mice).
- (2) On the order coming into force, the trust shall have the functions conferred in relation to the designated area (or part) instead of or concurrently with any such authority, depending on the terms of the order.
- (3) The order may provide that any enactment under which the trust is to exercise functions by virtue of the order shall have effect in relation to the trust and, where the trust is to have any function concurrently with another authority, in relation to that authority, as modified by the order.
- (4) Where an order under this section provides that a housing action trust shall have the functions conferred upon a local authority by Part III of the 1936 Act, section 36 of the Local Government Act 1974 (recovery by local authorities of establishment charges) shall apply to the housing action trust as if it were a local authority within the meaning of that section.
- (5) The order shall have effect subject to such savings and transitional and supplementary provisions as may be specified in the order.
- (6) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **69 Highways**

- (1) When any street works have been executed in a private street (or part of a private street) in a designated area, the housing action trust may serve a notice on the street works authority requiring it to declare the street (or part) to be a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.
- (2) Within the period of two months beginning on the date of the service of a notice under subsection (1) above, the street works authority may appeal against the notice to the Secretary of State on grounds relating to all or any of the following matters—
  - (a) the construction of the street (or part);
  - (b) its design;
  - (c) its layout; and

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- (d) the state of its maintenance.
- (3) After considering any representations made to him by the housing action trust and the street works authority, the Secretary of State shall determine an appeal under subsection (2) above by setting aside or confirming the notice under subsection (1) above (with or without modifications).
- (4) Where, under subsection (3) above, the Secretary of State confirms a notice,—
  - (a) he may at the same time impose conditions (including financial conditions) upon the housing action trust with which the trust must comply in order for the notice to take effect, and
  - (b) the highway (or part) shall become a highway maintainable at the public expense with effect from such date as the Secretary of State may specify.
- (5) Where a street works authority neither complies with the notice under subsection (1) above, nor appeals under subsection (2) above, the street (or part) concerned shall become a highway maintainable at the public expense upon the expiry of the period of two months referred to in subsection (2) above.
- (6) In this section “private street” and “street works authority” have the same meanings as in Part XI of the Highways Act 1980.

## **70 Co-operation on homelessness between local housing authorities and housing action trusts**

In paragraph (a) of section 72 of the Housing Act 1985 (which provides that, on a request by a local housing authority for assistance in the discharge of certain statutory functions relating to homelessness, or threatened homelessness, a body of a description specified in the paragraph shall co-operate in rendering such assistance as is reasonable in the circumstances) after the words “a registered housing association” there shall be inserted “a housing action trust”; and in the words following paragraph (c) of that section after the word “authority” there shall be inserted “or other body”.

## **71 Power to give financial assistance**

- (1) For the purpose of achieving its objects a housing action trust may, with the consent of the Secretary of State, give financial assistance to any person.
- (2) Financial assistance under subsection (1) above may be given in any form and, in particular, may be given by way of—
  - (a) grants,
  - (b) loans,
  - (c) guarantees,
  - (d) incurring expenditure for the benefit of the person assisted, or
  - (e) purchasing loan or share capital in a company.
- (3) Financial assistance under subsection (1) above may be given on such terms as the housing action trust, with the consent of the Secretary of State, considers appropriate.
- (4) Any consent under this section—
  - (a) may be given either unconditionally or subject to conditions; and
  - (b) may be given in relation to a particular case or in relation to such description of cases as may be specified in the consent;

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and the reference in subsection (3) above to the consent of the Secretary of State is a reference to his consent given with the approval of the Treasury.

- (5) The terms referred to in subsection (3) above may, in particular, include provision as to—
- (a) the circumstances in which the assistance must be repaid or otherwise made good to the housing action trust and the manner in which that is to be done; or
  - (b) the circumstances in which the housing action trust is entitled to recover the proceeds or part of the proceeds of any disposal of land or buildings in respect of which assistance was provided.
- (6) Any person receiving assistance under subsection (1) above shall comply with the terms on which it is given and compliance may be enforced by the housing action trust.

## **72 Directions as to exercise of functions**

- (1) In the exercise of its functions, a housing action trust shall comply with any directions given by the Secretary of State.
- (2) Directions given by the Secretary of State may be of a general or particular character and may be varied or revoked by subsequent directions.
- (3) The Secretary of State shall publish any direction given under this section.
- (4) A transaction between any person and a housing action trust acting in purported exercise of its powers under this Part of this Act shall not be void by reason only that the transaction was carried out in contravention of a direction given under this section; and a person dealing with a housing action trust shall not be concerned to see or enquire whether a direction under this section has been given or complied with.

## **73 Transfer of functions**

- (1) If, in the case of any designated area, it appears to the Secretary of State that it is expedient that the functions of a housing action trust established for the area should be transferred—
  - (a) to the housing action trust established for another designated area, or
  - (b) to a new housing action trust to be established for the area,he may by order provide for the dissolution of the first-mentioned trust and for the transfer of its functions, property, rights and liabilities to the trust referred to in paragraph (a) above, or, as the case may be, to a new housing action trust established for the area by the order.
- (2) Where an order under this section provides for the functions of a housing action trust established for a designated area to be transferred to the housing action trust established for another designated area—
  - (a) the latter trust shall, by virtue of the order, be treated as established for the first-mentioned designated area (as well as the area referred to in subsection (1) (a) above); and
  - (b) the order may alter the name of the latter trust in such manner as appears to the Secretary of State to be expedient.
- (3) Before making an order under this section the Secretary of State shall consult the housing action trust whose functions are to be transferred and also, in a case falling

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within subsection (1)(a) above, the housing action trust to whom the functions are to be transferred.

- (4) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

*Transfer of housing accommodation etc.*

**74 Transfer of land and other property to housing action trusts**

- (1) The Secretary of State may by order provide for the transfer from a local housing authority to a housing action trust of—
- (a) all or any of the authority’s local authority housing situated in the designated area; and
  - (b) any other land held or provided in connection with that local authority housing.
- (2) Without prejudice to the powers under subsection (1) above, if in the opinion of the Secretary of State a housing action trust requires for the purposes of its functions any land which, though not falling within that subsection, is situated in the designated area and held (for whatever purpose) by a local authority, the Secretary of State may by order provide for the transfer of that land to the trust.
- (3) The Secretary of State may by order transfer from a local housing authority or other local authority to a housing action trust so much as appears to him to be appropriate of any property which is held or used by the authority in connection with any local authority housing or other land transferred to the trust under subsection (1) or subsection (2) above; and for this purpose “property” includes chattels of any description and rights and liabilities, whether arising by contract or otherwise.
- (4) A transfer of any local authority housing or other land or property under the preceding provisions of this section shall be on such terms, including financial terms, as the Secretary of State thinks fit; and an order under this section may provide that, notwithstanding anything in section 141 of the Law of Property Act 1925 (rent and benefit of lessee’s covenants to run with the reversion), any rent or other sum which—
- (a) arises under a tenancy of any local authority housing or other land transferred to the housing action trust under subsection (1) or subsection (2) above, and
  - (b) falls due before the date of the transfer,
- shall continue to be recoverable by the local housing authority or, as the case may be, the local authority to the exclusion of the trust and of any other person in whom the reversion on the tenancy may become vested.
- (5) Without prejudice to the generality of subsection (4) above, the financial terms referred to in that subsection may include provision for payments by a local authority (as well as or instead of payments to a local authority); and the transfer from a local housing authority or other local authority of any local authority housing or other land or property by virtue of this section shall not be taken to give rise to any right to compensation.
- (6) Where an order is made under this section—
- (a) payments made by a local authority as mentioned in subsection (5) above shall be prescribed expenditure for the purposes of Part VIII of the Local



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Government, Planning and Land Act 1980 (capital expenditure of local authorities); and

- (b) unless the order otherwise provides, payments made to a local authority as mentioned in subsection (5) above shall be regarded for the purposes of that Part as sums received by the authority in respect of a disposal falling within section 75(2) of that Act.
- (7) Any power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “local authority” means any of the following—
- (a) a local housing authority;
  - (b) the council of a county;
  - (c) the Inner London Education Authority;
  - (d) an authority established by an order under section 10(1) of the Local Government Act 1985 (waste disposal);
  - (e) a joint authority established by Part IV of that Act; and
  - (f) a residuary body established by Part VII of that Act.

## **75 Supplementary provisions as to transfer orders**

- (1) In this section a “transfer order” means an order under any of subsections (1) to (3) of section 74 above and, in relation to a transfer order, “the transferor authority” means the local housing authority or other local authority from whom local authority housing or other land or property is or is to be transferred by the order.
- (2) Before making a transfer order, the Secretary of State shall consult the transferor authority with respect to—
- (a) the local authority housing or other land or property which it is proposed should be transferred by the order; and
  - (b) the terms of the proposed transfer.
- (3) Before making a transfer order with respect to any local authority housing or other land, the Secretary of State shall take such steps as appear to him to be appropriate to bring the proposed transfer to the attention of any secure tenant or other person (other than a local authority) having an interest in the property proposed to be transferred as lessor, lessee, mortgagor or mortgagee.
- (4) In connection with any transfer made by it, a transfer order may contain such incidental, consequential, transitional or supplementary provisions as appear to the Secretary of State to be necessary or expedient and, in particular, may—
- (a) apply, with or without modification, any provision made by or under any enactment; and
  - (b) modify the operation of any provision made by or under any enactment.

### *Vesting and acquisition of land*

## **76 Vesting by order in housing action trust**

- (1) Subject to subsections (2) and (3) below, the Secretary of State may by order provide that land specified in the order which is vested in statutory undertakers or any other

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public body or in a wholly-owned subsidiary of a public body shall vest in a housing action trust established or to be established for the designated area in which the land is situated.

- (2) An order under this section may not specify land vested in statutory undertakers which is used for the purpose of carrying on their statutory undertakings or which is held for that purpose.
- (3) In the case of land vested in statutory undertakers, the power to make an order under this section shall be exercisable by the Secretary of State and the appropriate Minister.
- (4) Part I of Schedule 9 to this Act shall have effect for supplementing the preceding provisions of this section.
- (5) An order under this section shall have the same effect as a declaration under the Compulsory Purchase (Vesting Declarations) Act 1981 except that, in relation to such an order, the enactments mentioned in Part II of Schedule 9 to this Act shall have effect subject to the modifications specified in that Part.
- (6) Compensation under the Land Compensation Act 1961, as applied by subsection (5) above and Part II of Schedule 9 to this Act, shall be assessed by reference to values current on the date the order under this section comes into force.
- (7) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

## **77 Acquisition by housing action trust**

- (1) For the purposes of achieving its objects (and performing any of its functions), a housing action trust may acquire land within its designated area by agreement or, on being authorised to do so by the Secretary of State, compulsorily.
- (2) A housing action trust may acquire (by agreement or, on being authorised to do so by the Secretary of State, compulsorily)—
  - (a) land adjacent to the designated area which the trust requires for purposes connected with the discharge of its functions in the area; and
  - (b) land outside the designated area (whether or not adjacent to it) which the trust requires for the provision of services in connection with the discharge of its functions in the area.
- (3) Where a housing action trust exercises its powers under subsection (1) or subsection (2) above in relation to land which forms part of a common or open space or fuel or field garden allotment, the trust may acquire (by agreement or, on being authorised to do so by the Secretary of State, compulsorily) land for giving in exchange for the land acquired.
- (4) Subject to section 78 below, the Acquisition of Land Act 1981 shall apply in relation to the compulsory acquisition of land in pursuance of the preceding provisions of this section.
- (5) A housing action trust may be authorised by the Secretary of State, by means of a compulsory purchase order, to purchase compulsorily such new rights as are specified in the order—

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- (a) being rights over land in the designated area and which the trust requires for the purposes of its functions;
  - (b) being rights over land adjacent to the designated area and which the trust requires for purposes connected with the discharge of its functions in the area; and
  - (c) being rights over land outside the designated area (whether or not adjacent to it) and which the trust requires for the provision of services in connection with the discharge of its functions in the area.
- (6) In subsection (5) above—
- (a) “new rights” means rights which are not in existence when the order specifying them is made; and
  - (b) “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981;
- and Schedule 3 to that Act shall apply to a compulsory purchase of a right by virtue of subsection (5) above.
- (7) The provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than section 31, shall apply in relation to the acquisition of land by agreement under this section; and in that Part as so applied “land” has the meaning given by the Interpretation Act 1978.

## **78 Supplementary provisions as to vesting, acquisition and compensation**

- (1) The Acquisition of Land Act 1981, as applied by section 77 above, shall have effect subject to the modifications in Part I of Schedule 10 to this Act.
- (2) The supplementary provisions in Parts II and III of that Schedule shall have effect, being,—
- (a) as to those in Part II, provisions about land vested in or acquired by a housing action trust under this Part of this Act; and
  - (b) as to those in Part III, provisions about the acquisition by a housing action trust of rights over land under section 77(5) above.
- (3) In Schedule 1 to the Land Compensation Act 1961 (actual or prospective development which is not to be taken into account in assessing compensation in certain cases or the effect of which is to reduce compensation in certain cases of adjacent land in the same ownership), the following paragraph shall be added after the paragraph 4A inserted by section 145 of the Local Government, Planning and Land Act 1980:

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| “4B. Where any of the relevant land forms part of a housing action trust area established under Part III of the Housing Act 1988. | Development of any land other than the relevant land in the course of the development or re-development of the area as a housing action trust area.” |
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- (4) In section 6 of the Land Compensation Act 1961 (disregard of actual or prospective development in certain cases) in subsection (1)(b) for “4A” there shall be substituted “4B”.

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### *Disposals of land*

#### **79 Disposal of land by housing action trusts**

- (1) Subject to subsection (2) below and any directions given by the Secretary of State, a housing action trust may, with the consent of the Secretary of State, dispose of any land for the time being held by it to such persons, in such manner and on such terms as it considers expedient for the purpose of achieving its objects.
- (2) A housing action trust may not dispose of a house which is for the time being subject to a secure tenancy except—
  - (a) to a person who is for the time being approved by the Corporation either under this section or under section 94 below, or
  - (b) to a local housing authority or other local authority in accordance with section 84 below;but this subsection does not apply to a disposal under Part V of the Housing Act 1985 (the right to buy).
- (3) The reference in subsection (1) above to disposing of land includes a reference to granting an interest in or right over land and, in particular, the granting of an option to purchase the freehold of, or any other interest in, land is a disposal for the purposes of that subsection; and a consent under that subsection given to such a disposal extends to a disposal made in pursuance of the option.
- (4) The consent of the Secretary of State referred to in subsection (1) above may be given—
  - (a) either generally to all housing action trusts or to a particular trust or description of trust;
  - (b) either in relation to particular land or in relation to land of a particular description; and
  - (c) subject to conditions.
- (5) Without prejudice to the generality of subsection (4)(c) above, consent under subsection (1) above may, in particular, be given subject to conditions as to the price, premium or rent to be obtained by the housing action trust on the disposal, including conditions as to the amount by which, on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the housing action trust.
- (6) The Corporation shall not under this section approve—
  - (a) a public sector landlord; or
  - (b) the council of a county; or
  - (c) any other body which the Corporation have reason to believe might not be independent of such a landlord or council;and, for the purposes of paragraph (c) above, a body shall not be regarded as independent of a public sector landlord or the council of a county if the body is or appears likely to be under the control of, or subject to influence from, such a landlord or council or particular members or officers of such a landlord or council.
- (7) In subsection (6) above “public sector landlord” means—
  - (a) a local housing authority;

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- (b) a new town corporation within the meaning of section 4(b) of the Housing Act 1985; and
  - (c) the Development Board for Rural Wales.
- (8) The Corporation shall establish (and may from time to time vary) criteria to be satisfied by a person seeking approval under this section and, in deciding whether to give such approval, the Corporation shall have regard to whether the person satisfies the criteria.
- (9) Subject to any directions under section 76 of the Housing Associations Act 1985 (directions by the Secretary of State),—
- (a) an approval under this section shall not be given except to a person making an application accompanied by such fee as the Corporation, with the consent of the Secretary of State, may specify; and
  - (b) an approval under this section may be made conditional upon the person or persons concerned entering into such undertakings as may be specified by the Corporation; and
  - (c) if it appears to the Corporation appropriate to do so (whether by reason of a failure to honour an undertaking or to meet any criteria or for any other reason) the Corporation may revoke an approval given under this section by notice in writing served on the approved person, but such a revocation shall not affect any transaction completed before the service of the notice;
- and different fees may be specified under paragraph (a) above for different descriptions of cases.
- (10) The Housing Corporation and Housing for Wales shall each maintain a register of persons for the time being approved by it under this section; and each register so maintained shall be open to inspection at the head office of the Corporation by which it is maintained at all reasonable times.
- (11) In section 45(2)(b) of the Housing Act 1985 (which defines “public sector authority” for the purposes of provisions of that Act restricting service charges payable after disposal of a house) after the entry “an urban development corporation” there shall be inserted “a housing action trust”.
- (12) A housing action trust shall be treated as a local authority for the purposes of sections 18 to 30 of the Landlord and Tenant Act 1985 (service charges).
- (13) The provisions of Schedule 11 to this Act shall have effect in the case of certain disposals of houses by a housing action trust.

## **80 Disposals made without consent**

- (1) Any disposal of a house by a housing action trust which is made without the consent required by section 79(1) above is void unless—
- (a) the disposal is to an individual (or to two or more individuals); and
  - (b) the disposal does not extend to any other house.
- (2) Subject to subsection (1) above,—
- (a) a disposal of any land made by a housing action trust shall not be invalid by reason only that it is made without the consent required by section 79(1) above; and

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- (b) a person dealing with a housing action trust or with a person claiming under such a trust shall not be concerned to see or enquire whether any consent required by section 79(1) above has been obtained.

## **81 Consent required for certain subsequent disposals**

- (1) If, by a material disposal, a housing action trust disposes of a house which is for the time being subject to a secure tenancy to such a person as is mentioned in section 79(2) (a) above (in this section referred to as an “approved person”), the conveyance shall contain a statement that the requirement of this section as to consent applies to a subsequent disposal of the house by the approved person.
- (2) For the purposes of this section a “material disposal” is—
  - (a) the transfer of the fee simple;
  - (b) the transfer of an existing lease; or
  - (c) the grant of a new lease;and “the conveyance” means the instrument by which such a disposal is effected.
- (3) An approved person who acquires a house on a material disposal falling within subsection (1) above shall not dispose of it except with the consent of the Secretary of State which may be given either unconditionally or subject to conditions; but nothing in this subsection shall apply in relation to an exempt disposal as defined in subsection (8) below.
- (4) Where an estate or interest in a house acquired by an approved person as mentioned in subsection (3) above has been mortgaged or charged, the prohibition in that subsection applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—
  - (a) by operation of law or by virtue of an order of a court, property which has been acquired by an approved person passes or is transferred to another person, and
  - (b) that passing or transfer does not constitute a disposal for which consent is required under subsection (3) above,this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the property passes or is transferred were the approved person.
- (5) Before giving consent in respect of a disposal to which subsection (3) above applies, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any house proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- (6) If, apart from subsection (7) below, the consent of the Corporation would be required under section 9 of the Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal to which subsection (3) above applies, the Secretary of State shall consult the Corporation before giving his consent in respect of the disposal for the purposes of this section.
- (7) No consent shall be required under the said section 9 for any disposal in respect of which consent is given in accordance with subsection (6) above.

- (8) In this section an “exempt disposal” means—
- (a) the disposal of a dwelling-house to a person having the right to buy it under Part V of the Housing Act 1985 (whether the disposal is in fact made under that Part or otherwise);
  - (b) a compulsory disposal, within the meaning of Part V of the Housing Act 1985;
  - (c) the disposal of an easement or rentcharge;
  - (d) the disposal of an interest by way of security for a loan;
  - (e) the grant of a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985;
  - (f) the grant of an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of this Act, or what would be such a tenancy or occupancy but for any of paragraphs 4 to 8 of Schedule 1 to this Act; and
  - (g) the transfer of an interest held on trust for any person where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee.
- (9) Where the title of a housing action trust to a house which is disposed of by a material disposal falling within subsection (1) above is not registered—
- (a) section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance whether or not the house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force;
  - (b) the housing action trust shall give the approved person a certificate stating that it is entitled to make the disposal subject only to such encumbrances, rights and interests as are stated in the conveyance or summarised in the certificate; and
  - (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as 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 1986 the housing action trust is liable to indemnify him.
- (10) On an application being made for registration of a disposition of registered land or, as the case may be, of the approved person’s title under a disposition of unregistered land, if the conveyance contains the statement required by subsection (1) above, the Chief Land Registrar shall enter in the register a restriction stating the requirement of this section as to consent to a subsequent disposal.
- (11) In this section references to disposing of a house include references to—
- (a) granting or disposing of any interest in the house;
  - (b) entering into a contract to dispose of the house or to grant or dispose of any such interest; and
  - (c) granting an option to acquire the house or any such interest;
- and any reference to a statement or certificate is a reference to a statement or, as the case may be, certificate in a form approved by the Chief Land Registrar.

## **82 Power of Corporation to provide legal assistance to tenants after disposal**

- (1) This section applies where a house has been disposed of by a disposal falling within section 79(2) above and, in relation to a house which has been so disposed of, a “transferred tenant” means a tenant of it who either—

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- (a) was the secure tenant of the house immediately before the disposal; or
  - (b) is the widow or widower of the person who was then the secure tenant of it.
- (2) On an application by a transferred tenant of a house who is a party or a prospective party to proceedings or prospective proceedings to determine any dispute between himself and the person who acquired the house on the disposal referred to in subsection (1) above, the Corporation may give assistance to the transferred tenant if it thinks fit to do so—
- (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the transferred tenant to deal with it without assistance; or
  - (c) by reason of any other special consideration.
- (3) Assistance given by the Corporation under this section may include—
- (a) giving advice;
  - (b) procuring or attempting to procure the settlement of the matter in dispute;
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel;
  - (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
  - (e) any other form of assistance which the Corporation may consider appropriate;
- but paragraph (d) above does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (4) In so far as expenses are incurred by the Corporation in providing a transferred tenant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Corporation—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the tenant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;
- but subject to any charge under the Legal Aid Act 1988 and to any provision of that Act for payment of any sum to the Legal Aid Board.

*Secure tenancies and right to buy*

**83 Application of Parts IV and V of Housing Act 1985**

- (1) Parts IV and V of the Housing Act 1985 (secure tenancies and the right to buy) shall be amended in accordance with this section.
- (2) In section 80(1) (which lists the landlords whose tenancies can qualify as secure tenancies), after the entry specifying a new town corporation there shall be inserted—
- “a housing action trust”.



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- (3) In section 108 (heating charges to secure tenants), in paragraph (a) of subsection (5) (the definition of “heating authority”) after the words “housing authority” there shall be inserted “or housing action trust”.
- (4) In section 114 (meaning of “landlord authority” for the purposes of that Part), in each of subsections (1) and (2), after the entry specifying a development corporation, there shall be inserted—
- “a housing action trust”.
- (5) In section 171 (power to extend right to buy where certain bodies hold an interest in a dwelling-house), in subsection (2), after the entry specifying a new town corporation there shall be inserted—
- “a housing action trust”.
- (6) In each of the following provisions (all of which relate to cases where premises are or were let to a person in consequence of employment), namely—
- (a) paragraph 2(1) of Schedule 1 (tenancies which are not secure tenancies),
  - (b) Grounds 7 and 12 of Schedule 2 (grounds for possession of dwelling-houses let under secure tenancies),
  - (c) Ground 5 of Schedule 3 (grounds for withholding consent to assignment by way of exchange), and
  - (d) paragraph 5 of Schedule 5 (exceptions to the right to buy),
- after the entry specifying a new town corporation there shall be inserted—
- “a housing action trust”.
- (7) In Schedule 4 (qualifying period for right to buy and discount), in paragraph 7 (the landlord condition) after the entry specifying a new town corporation there shall be inserted—
- “a housing action trust”.

#### **84 Provisions applicable to disposals of dwelling-houses subject to secure tenancies**

- (1) The provisions of this section apply in any case where a housing action trust proposes to make a disposal of one or more houses let on secure tenancies which would result in a person who, before the disposal, is a secure tenant of the trust becoming, after the disposal, the tenant of another person.
- (2) Before applying to the Secretary of State for consent to the proposed disposal or serving notice under subsection (4) below, the housing action trust shall serve notice in writing—
- (a) on any local housing authority in whose area any houses falling within subsection (1) above are situated, and
  - (b) if any such houses were transferred to the trust from another local housing authority or other local authority under section 74 above, on that authority,
- informing the authority of the proposed disposal, specifying the houses concerned, and requiring the authority within such period, being not less than 28 days, as may be specified in the notice, to serve on the trust a notice under subsection (3) below.
- (3) A notice by a local housing authority or other local authority under this subsection shall inform the housing action trust, with respect to each of the houses specified in

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the notice under subsection (2) above which is in the authority's area or, as the case may be, which was transferred from the authority as mentioned in paragraph (b) of that subsection,—

- (a) that the authority wishes to acquire the house or is considering its acquisition;  
or
- (b) that the authority does not wish to acquire the house;

and where the authority serves notice as mentioned in paragraph (a) above with respect to any house, the notice shall give information as to the likely consequences for the tenant if the house were to be acquired by the authority.

- (4) Before applying to the Secretary of State for consent to the proposed disposal, and after the expiry of the period specified in the notice under subsection (2) above, the housing action trust shall serve notice in writing on the secure tenant—
  - (a) informing him of the proposed disposal and of the name of the person to whom the disposal is to be made;
  - (b) containing such other details of the disposal as seem to the trust to be appropriate;
  - (c) informing him of the likely consequences of the disposal on his position as a secure tenant and, if appropriate, of the effect of sections 171A to 171H of the Housing Act 1985 (preservation of right to buy on disposal to private sector landlord);
  - (d) informing him, with respect to the house of which he is tenant, of the wishes of the local housing authority and of any other authority which has served a notice under subsection (3) above;
  - (e) if an authority has served notice under paragraph (a) of subsection (3) above with respect to that house, informing him (in accordance with the information given in the notice) of the likely consequences for him if the house were to be acquired by that authority and also, if he wishes to become a tenant of that authority, of his right to make representations to that effect under paragraph (f) below; and
  - (f) informing him of his right to make representations to the trust with respect to the proposed disposal within such period, being not less than 28 days, as may be specified in the notice.
- (5) The housing action trust shall consider any representations made to it in accordance with subsection (4)(f) above and, if it considers it appropriate having regard to—
  - (a) any representations so made, and
  - (b) any further information which may be provided by an authority which served a notice under subsection (3)(a) above that it was considering the acquisition of a house,

the trust may amend its proposals with respect to the disposal and, in such a case, shall serve a further notice under subsection (4) above (in relation to which this subsection will again apply).

- (6) When applying to the Secretary of State for consent to the proposed disposal (as amended, where appropriate, by virtue of subsection (5) above) the housing action trust shall furnish to him—
  - (a) a copy of any notice served on it under subsection (3) above or served by it under subsection (4) above;
  - (b) a copy of any representations received by the trust; and
  - (c) a statement of the consideration given by the trust to those representations.

- (7) Without prejudice to the generality of section 72 above, where an application is made to the Secretary of State for consent to a disposal to which this section applies, the Secretary of State may, by a direction under that section, require the housing action trust—
- (a) to carry out such further consultation with respect to the proposed disposal as may be specified in the direction; and
  - (b) to furnish to him such information as may be so specified with respect to the results of that consultation.
- (8) Notwithstanding the application to a housing action trust of Part IV of the Housing Act 1985 (secure tenancies) a disposal falling within subsection (1) above shall be treated as not being a matter of housing management to which section 105 of that Act applies.

### *Rents*

#### **85 Rents generally**

- (1) A housing action trust may make such reasonable charges as it may determine for the tenancy or occupation of housing accommodation for the time being held by it.
- (2) A housing action trust shall from time to time review rents and make such changes, either of rents generally or of particular rents, as circumstances may require.

#### **86 Increase of rent where tenancy not secure**

- (1) This section applies where a dwelling-house is let by a housing action trust on a periodic tenancy which is not a secure tenancy.
- (2) The rent payable under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of a rental period by a written notice of increase given by the housing action trust to the tenant.
- (3) A notice under subsection (2) above is not effective unless—
  - (a) it is given at least four weeks before the first day of the rental period, or any earlier day on which the payment of rent in respect of that period falls to be made;
  - (b) it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so; and
  - (c) it gives him the dates by which, if (by virtue of subsection (4) below) the increase is not to be effective, a notice to quit must be received by the trust and the tenancy be made to terminate.
- (4) Where a notice is given under subsection (2) above specifying an increase in rent with effect from the beginning of a rental period and the tenancy continues into that period, the notice shall not have effect if—
  - (a) the tenancy is terminated by notice to quit given by the tenant in accordance with the provisions (express or implied) of the tenancy;
  - (b) the notice to quit is given before the expiry of the period of two weeks beginning on the day following the date on which the notice of increase is given, or before the expiry of such longer period as may be allowed by the notice of increase; and

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- (c) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant on the last day of that rental period.
- (5) In this section “rental period” means a period in respect of which a payment of rent falls to be made.

### *Agency and dissolution*

#### **87 Agency agreements**

- (1) With the approval of the Secretary of State, a housing action trust may enter into an agreement with another person whereby, in relation to any housing accommodation or other land held by the trust which is specified in the agreement, that other person shall exercise, as agent of the trust, such of the functions of the trust as are so specified.
- (2) An agreement under subsection (1) above shall set out the terms on which the functions of the housing action trust are exercisable by the person who, under the agreement, is the agent of the trust (in this Part of this Act referred to as “the agent”).
- (3) Where the agent is a body or association, an agreement under subsection (1) above may provide that the functions of the agent under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (4) The approval of the Secretary of State under subsection (1) above may be given unconditionally or subject to conditions.
- (5) References in this section to the functions of a housing action trust in relation to housing accommodation or other land include—
  - (a) functions conferred by any statutory provision, and
  - (b) the powers and duties of the trust as holder of an estate or interest in the housing accommodation or land in question.

#### **88 Dissolution of housing action trust**

- (1) A housing action trust shall use its best endeavours to secure that its objects are achieved as soon as practicable.
- (2) Where it appears to a trust that its objects have been substantially achieved, it shall—
  - (a) so far as practicable, dispose or arrange to dispose of any remaining property, rights or liabilities of the trust in accordance with the preceding provisions of this Part of this Act; and
  - (b) submit proposals to the Secretary of State for—
    - (i) the dissolution of the trust;
    - (ii) the disposal to any person of any remaining property, rights or liabilities of the trust which it has not been able to dispose of or arrange to dispose of under paragraph (a) above; and
    - (iii) the transfer of any function exercisable by the trust to another person (including, where appropriate, a person with whom the trust has entered into an agreement under section 87 above).
- (3) The Secretary of State may by order provide for the dissolution of a housing action trust and for any such disposal or transfer as is mentioned in subsection (2)(b) above,

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whether by way of giving effect (with or without modifications) to any proposals submitted to him under subsection (2) above or otherwise.

- (4) Any order under this section—
- (a) where it provides for any such disposal or transfer as is mentioned in subsection (2)(b) above, may be on such terms, including financial terms, as the Secretary of State thinks fit and may create or impose such new rights or liabilities in respect of what is transferred as appear to him to be necessary or expedient;
  - (b) may contain such supplementary and transitional provisions as the Secretary of State thinks necessary or expedient, including provisions amending any enactment or any instrument made under any enactment or establishing new bodies corporate to receive any functions, property, rights or liabilities transferred by the order; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Miscellaneous and general*

### **89 Supply of goods and services**

- (1) A housing action trust and an urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980, may enter into any agreement with each other for all or any of the purposes set out in section 1(1) of the Local Authorities (Goods and Services) Act 1970, as if they were local authorities within the meaning of section 1 of that Act.
- (2) Without prejudice to subsection (1) above, in section 1(4) of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies), after the words ““public body” means any local authority” there shall be inserted “housing action trust established under Part III of the Housing Act 1988”.

### **90 Information**

- (1) If required to do so by notice in writing given by the Secretary of State for any of the purposes mentioned in subsection (3) below, a local authority,—
  - (a) at such time and place as may be specified in the notice, shall produce any document; or
  - (b) within such period as may be so specified, or such longer period as the Secretary of State may allow, shall furnish a copy of any document or supply any information;being a document, copy or information of a description specified in the notice.
- (2) Where notice is given to a local authority under subsection (1) above, any officer of the authority—
  - (a) who has the custody or control of any document to which the notice relates, or
  - (b) who is in a position to give information to which the notice relates,shall take all reasonable steps to ensure that the notice is complied with.
- (3) The purposes referred to in subsection (1) above are—

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- (a) determining whether the Secretary of State should make a designation order in respect of any area;
  - (b) where a designation order is to be or has been made, determining whether, and to what extent, he should exercise any of his other powers under this Part of this Act; and
  - (c) enabling him to provide information to a housing action trust the better to enable it to carry out its functions.
- (4) Without prejudice to the generality of subsection (1) above, among the information which may be required by a notice under that subsection is information with respect to the interests in, and the occupation of, land held by a local authority and, in particular, information with respect to any matter entered in a register kept under the Land Registration Act 1925 or the Land Charges Act 1972.
- (5) To any extent to which, apart from this subsection, he would not be able to do so, the Secretary of State may use, for any of the purposes mentioned in subsection (3) above, any information obtained by him under, or in connection with his functions under, the Housing Act 1985 or any other enactment.
- (6) If the Secretary of State considers it necessary or desirable to do so in order the better to enable a housing action trust to carry out its functions, he may disclose to the trust any information originally obtained by him for a purpose falling within paragraph (a) or paragraph (b) of subsection (3) above as well as information obtained for the purpose referred to in paragraph (c) of that subsection.
- (7) In this section “local authority” has the same meaning as in section 74 above.

## **91 Service of notices**

- (1) This section has effect in relation to any notice required or authorised by this Part of this Act to be served on any person by a housing action trust.
- (2) Any such notice may be served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such notice may—
- (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body; and
  - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person to or on whom a notice is to be given or served shall be his last known address, except that—
- (a) in the case of a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of that body; and
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

- (5) If the person to be given or served with any notice mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept documents of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (6) If the name or address of any owner, lessee or occupier of land to or on whom any notice mentioned in subsection (1) above is to be served cannot after reasonable inquiry be ascertained, the document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

## **92 Interpretation of Part III**

- (1) In this Part of this Act, except where the context otherwise requires,—
- (a) “designated area” and “designation order” have the meaning assigned by section 60(6) above;
  - (b) any reference to a “house” includes a reference to a flat and to any yard, garden, outhouses and appurtenances belonging to the house or flat or usually enjoyed with it;
  - (c) “housing accommodation” includes flats, lodging-houses and hostels;
  - (d) “local housing authority” has the same meaning as in the Housing Act 1985 and section 2 of that Act (the district of a local housing authority) has effect in relation to this Part of this Act as it has effect in relation to that Act;
  - (e) “local authority housing” means housing accommodation provided by a local housing authority (whether in its own district or not);
  - (f) “secure tenancy” has the meaning assigned by section 79 of the Housing Act 1985 and “secure tenant” shall be construed accordingly; and
  - (g) “the 1971 Act” means the Town and Country Planning Act 1971.
- (2) In this Part of this Act “the Corporation” means the Housing Corporation or Housing for Wales but—
- (a) an approval given by the Housing Corporation shall not have effect in relation to buildings or other property in Wales; and
  - (b) an approval given by Housing for Wales shall not have effect in relation to buildings or other property in England.

## **PART IV**

### **CHANGE OF LANDLORD: SECURE TENANTS**

#### *Preliminary*

## **93 Right conferred by Part IV**

- (1) This Part has effect for the purpose of conferring on any person who has been approved under section 94 below the right to acquire from a public sector landlord, subject to and in accordance with the provisions of this Part—

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- (a) the fee simple estate in any buildings each of which comprises or contains one or more dwelling-houses which on the relevant date are occupied by qualifying tenants of the public sector landlord; and
  - (b) the fee simple estate in any other property which is reasonably required for occupation with buildings falling within paragraph (a) above.
- (2) The following are public sector landlords for the purposes of this Part, namely—
- (a) a local housing authority within the meaning of section 1 of the Housing Act 1985 (in this Part referred to as “the 1985 Act”);
  - (b) a new town corporation within the meaning of section 4(b) of that Act;
  - (c) a housing action trust within the meaning of Part III of this Act; and
  - (d) the Development Board for Rural Wales.
- (3) Subject to subsection (4) below, a secure tenant of a public sector landlord is a qualifying tenant for the purposes of this Part if (and only if) his secure tenancy is held directly from the landlord as owner of the fee simple estate and, in relation to any acquisition or proposed acquisition under this Part, any reference in the following provisions of this Part to qualifying tenant is a reference only to a qualifying tenant of the public sector landlord from whom the acquisition is or is proposed to be made.
- (4) A secure tenant is not a qualifying tenant for the purposes of this Part if—
- (a) he is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in such an order; or
  - (b) the circumstances are as set out in any of paragraphs 5 to 11 of Schedule 5 to the 1985 Act (exceptions to right to buy).
- (5) In this Part “the relevant date”, in relation to an acquisition or proposed acquisition under this Part, means the date on which is made the application under section 96 below claiming to exercise the right conferred by this Part.

#### **94 Persons by whom right may be exercised**

- (1) The right conferred by this Part shall not be exercisable except by a person who is for the time being approved by the Corporation under this section; and neither a public sector landlord nor the council of a county nor any other body which the Corporation have reason to believe might not be independent of such a landlord or council may be approved under this section.
- (2) For the purposes of subsection (1) above, a body shall not be regarded as independent of a public sector landlord or the council of a county if the body is or appears likely to be under the control of, or subject to influence from, such a landlord or council or particular members or officers of such a landlord or council.
- (3) The Corporation shall establish (and may from time to time vary) criteria to be satisfied by a person seeking approval under this section and, without prejudice to subsections (1) and (2) above, in deciding whether to give such approval, the Corporation shall have regard to whether the person satisfies those criteria.
- (4) Subject to any directions under section 76 of the Housing Associations Act 1985 (directions by the Secretary of State), an approval under this section—
- (a) shall not be given except to a person making an application accompanied by such fee as the Corporation, with the consent of the Secretary of State, may specify; and



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- (b) may be given to a particular person or to persons of a particular description; and
  - (c) may apply either in relation to acquisitions generally or in relation to a particular acquisition or acquisitions or in relation to acquisitions made in a particular area or within a particular period; and
  - (d) may be made conditional upon the person or persons concerned entering into such undertakings as may be specified by the Corporation;
- and different fees may be specified under paragraph (a) above for different descriptions of cases.
- (5) Subject to any directions under section 76 of the Housing Associations Act 1985, if it appears to the Corporation appropriate to do so (whether by reason of a failure to honour an undertaking or to meet any criteria or for any other reason), the Corporation may revoke an approval given under this section by notice in writing served on the approved person; and where such a notice of revocation is served—
- (a) the revocation shall be provisional until the expiry of such period, being not less than 14 days, as may be specified in the notice;
  - (b) if the Corporation withdraws the notice at any time during the specified period, the approval shall be treated as never having been revoked; and
  - (c) subject to paragraph (b) above, after the date of service of the notice, the person concerned may not take any steps in connection with a claim to exercise the right conferred by this Part;
- but the service of a notice under this subsection shall not affect any transaction completed before the service of the notice.
- (6) In the case of a body which has been approved under this section which does not have a registered office (at which documents can be served) and which appears to the Corporation to have ceased to exist or not to operate, notice under subsection (5) above shall be deemed to be served on the body if it is served at the address last known to the Corporation to be the principal place of business of the body.
- (7) The Housing Corporation and Housing for Wales shall each maintain a register of persons for the time being approved by it under this section, specifying the extent of the approval given in each case; and each register so maintained shall be open to inspection at the head office of the Corporation by which it is maintained at all reasonable times.

## **95 Property excluded from right**

- (1) A building shall be excluded from an acquisition under this Part if on the relevant date—
- (a) any part or parts of the building is or are occupied or intended to be occupied otherwise than for residential purposes; and
  - (b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the building (taken as a whole);
- and for the purposes of this subsection the internal floor area of any common parts or common facilities shall be disregarded.
- (2) In the application of subsection (1) above to property falling within section 93(1)(b) above, a building or part of a building which, apart from this subsection, would not be regarded as occupied for residential purposes shall be so regarded if—
- (a) it is or is intended to be occupied together with a dwelling-house and used for purposes connected with the occupation of the dwelling-house; or

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- (b) it is or is intended to be used for the provision of services to a dwelling-house which is comprised in a building falling within section 93(1)(a) above.
- (3) A building shall be excluded from an acquisition under this Part if—
  - (a) it contains two or more dwelling-houses which on the relevant date are occupied by secure tenants who are not qualifying tenants; and
  - (b) the number of dwelling-houses which on that date are occupied by such tenants exceeds 50 per cent. of the total number of dwelling-houses in the building.
- (4) A dwelling-house shall be excluded from an acquisition under this Part if it is a house and it is occupied on the relevant date by—
  - (a) a secure tenant who is precluded from being a qualifying tenant by section 93(4)(b) above; or
  - (b) a tenant who is not a secure tenant.
- (5) A building or other property shall be excluded from an acquisition under this Part if—
  - (a) it was specified in some other application made under section 96 below made before the relevant date; and
  - (b) that other application has not been disposed of.
- (6) Except to the extent that it comprises or is let together with a dwelling-house, property shall be excluded from an acquisition under this Part if it is land held—
  - (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds); or
  - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds).
- (7) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (1)(b) above such other percentage as is specified in the order.

### *Initial procedures*

## **96 Application to exercise right**

- (1) An application claiming to exercise the right conferred by this Part—
  - (a) shall be made in the prescribed form to the public sector landlord concerned; and
  - (b) shall specify and be accompanied by a plan which shows—
    - (i) the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above; and
    - (ii) the property proposed to be acquired by virtue of paragraph (b) of that subsection.
- (2) Where an application claiming to exercise the right conferred by this Part specifies, as a building proposed to be acquired by virtue of section 93(1)(a) above, a building containing a dwelling-house which is subject to an approved co-operative management agreement, the application—
  - (a) shall specify all the buildings which contain dwelling-houses subject to the agreement and in which the public sector landlord has the fee simple estate; and

- (b) shall not specify (by virtue of paragraph (a) or paragraph (b) of subsection (1) of section 93 above) any building which contains dwelling-houses if none of them is subject to the agreement.
- (3) For the purposes of subsection (2) above, an approved co-operative management agreement is an agreement—
  - (a) which is made with the approval of the Secretary of State under section 27 of the Housing Act 1985, either as originally enacted or as substituted by section 10 of the Housing and Planning Act 1986; and
  - (b) under which the body exercising functions of the local housing authority is a society, company or body of trustees approved by the Secretary of State for the purposes of subsection (2) above.

## **97 Information etc. for applicant**

- (1) Within four weeks of the relevant date, the landlord shall serve on the applicant a notice specifying—
  - (a) the name and address of every tenant or licensee of a dwelling-house which the buildings proposed to be acquired by virtue of section 93(1)(a) above comprise or contain; and
  - (b) the general nature of his tenancy or licence.
- (2) As from four weeks after that date, the applicant shall have the following rights, namely—
  - (a) a right of access, at any reasonable time and on giving reasonable notice, to any property proposed to be acquired which is not subject to a tenancy;
  - (b) a right, on giving reasonable notice, to be provided with a list of any documents to which subsection (3) below applies;
  - (c) a right to inspect, at any reasonable time and on giving reasonable notice, any documents to which that subsection applies; and
  - (d) a right, on payment of a reasonable fee, to be provided with a copy of any documents inspected under paragraph (c) above.
- (3) This subsection applies to any document in the possession of the landlord—
  - (a) sight of which is reasonably required for the purpose of pursuing the application; and
  - (b) which, on a proposed sale by a willing vendor to a willing purchaser of the property proposed to be acquired, the landlord, as vendor, would be expected to make available to the purchaser (whether at or before contract or completion).
- (4) In this section “document” has the same meaning as in Part I of the Civil Evidence Act 1968.

## **98 Determination of property to be included**

- (1) Within twelve weeks of the relevant date, the landlord shall serve on the applicant a notice stating—
  - (a) which (if any) of the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above should be excluded from the acquisition on the ground that they do not comprise or contain one or

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- more dwelling-houses which on the relevant date were occupied by qualifying tenants;
- (b) which (if any) property proposed to be acquired by virtue of paragraph (b) of that subsection should be excluded from the acquisition on the ground that it is not reasonably required for occupation with any of the buildings proposed to be acquired by virtue of paragraph (a) of that subsection or that it is reasonably required for occupation with such of those buildings as should be excluded from the acquisition on the ground mentioned in paragraph (a) above;
  - (c) which (if any) property proposed to be acquired by virtue of either paragraph of that subsection should be excluded from the acquisition on the ground that its inclusion is precluded by section 95 above or that it is reasonably required for occupation with property the inclusion of which is so precluded or that it is a building which is excluded from the acquisition by virtue of section 96(2)(b) above;
  - (d) which property (if any) the landlord desires to have included in the acquisition on the ground that it cannot otherwise be reasonably managed or maintained;
  - (e) which rights (if any) the landlord desires to retain over property included in the acquisition on the ground that they are necessary for the proper management or maintenance of land to be retained by the landlord;
  - (f) the other proposed terms of the conveyance; and
  - (g) such other particulars as may be prescribed.
- (2) A building which is excluded from an acquisition by virtue of section 95 or section 96(2)(b) above may not be included by virtue of subsection (1)(d) above.
- (3) Where a notice under subsection (1) above specifies property falling within paragraph (d) of that subsection, the applicant shall have a right of access, at any reasonable time and on giving reasonable notice, to any of that property which is not subject to a tenancy.
- (4) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.
- (5) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined—
- (a) by a person agreed to by the parties or, in default of agreement, appointed by the Secretary of State; and
  - (b) in accordance with such provisions (including provisions as to costs) as may be prescribed.
- (6) In relation to a proposed acquisition under this Part, any reference in the following provisions of this Part to the property to which the acquisition relates is a reference to the whole of the property which, in accordance with the provisions of this section, is to be acquired, disregarding the effect of any exclusion by virtue of regulations under section 100 below.

## **99 Determination of purchase price**

- (1) Within eight weeks of—
- (a) if there is no dispute as to any of the matters stated in the notice under section 98(1) above, the service of that notice, or
  - (b) if there is such a dispute, the determination of the dispute,

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- the landlord shall serve on the applicant a notice specifying—
- (i) the price which, disregarding sections 100(3) and 103(1) below, it considers should be payable for the property to be acquired or, as the case may be, the disposal cost which, disregarding section 100(3) below, is attributable to the property to be acquired by virtue of subsection (3) below; and
  - (ii) if the property to which the acquisition relates includes dwelling-houses which are houses as well as other property, an amount which the landlord considers to be the amount attributable to houses as defined in section 100(4)(b) below.
- (2) Subject to sections 100(3) and 103(1) below, the price payable for the property to be acquired shall be the price which on the relevant date the property to which the acquisition relates would realise if sold on the open market by a willing vendor on the following assumptions, namely—
- (a) that it was sold subject to any tenancies subsisting on that date but otherwise with vacant possession;
  - (b) that it was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of the right of acquisition;
  - (c) that the only bidders in the market were persons who on that date either were approved under section 94 above or fulfilled the criteria for approval established under subsection (3) of that section;
  - (d) that the applicant would, within a reasonable period, carry out such works as are reasonably necessary to put the buildings included in the acquisition into the state of repair required by the landlord's repairing obligations; and
  - (e) that the applicant would not be required to grant any leases in pursuance of regulations made under section 100 below.
- (3) Subject to section 100(3) below, there is a disposal cost attributable to the property to be acquired if, having regard to the expense likely to be incurred in carrying out the works referred to in paragraph (d) of subsection (2) above, the property to which the acquisition relates would not realise any price in the circumstances specified in that subsection; and that disposal cost is the amount by which the expense likely to be so incurred exceeds what would be determined under that subsection as the price if those works had already been carried out.
- (4) The notice under subsection (1) above shall contain sufficient information to enable the applicant to see how the price or, as the case may be, disposal cost and any amount referred to in sub-paragraphs (i) and (ii) of subsection (1) above were arrived at and, if the property to which the acquisition relates consists of or includes any dwelling-houses which are houses, the notice shall also contain a list of the addresses of the houses together with the number of habitable rooms in each of them.
- (5) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.
- (6) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined by the district valuer, in accordance with such provisions (including provisions as to costs) as may be prescribed.

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### *Special cases*

#### **100 Tenants continuing as tenants of landlord**

- (1) The Secretary of State shall make regulations imposing the following requirements in relation to any acquisition under this Part, namely—
  - (a) that any dwelling-house which is a house and is occupied by a tenant to whom subsection (2) below applies shall be excluded from the acquisition; and
  - (b) that a lease of any dwelling-house which is a flat and is occupied by a tenant to whom subsection (2) below applies or by a tenant of a description prescribed for the purposes of this paragraph shall be granted by the applicant to the landlord immediately after the acquisition.
- (2) This subsection applies—
  - (a) to any qualifying tenant whose tenancy commenced before the relevant date, and
  - (b) to any tenant of a description prescribed for the purposes of this subsection, being, in either case, a tenant who, before the end of the period mentioned in section 102 below and in response to the consultation under that section, gives notice as mentioned in section 103(2) below of his wish to continue as a tenant of the landlord.
- (3) If, by virtue of regulations under this section, any houses fall to be excluded from the acquisition—
  - (a) there shall be determined the sum (in this subsection referred to as “the sum referable to excluded houses”) which represents that proportion of the amount attributable to houses which the number of habitable rooms in the houses which fall to be so excluded bears to the number of habitable rooms in all of the houses comprised in the property to which the acquisition relates; and
  - (b) if the amount attributable to houses is a price, the sum referable to excluded houses shall be applied as a deduction from any price payable for the property to be acquired, as determined under section 99 above, and as an increase in any disposal cost attributable to that property; and
  - (c) if the amount attributable to houses is a disposal cost, the sum referable to excluded houses shall be applied as an increase in any price payable for the property to be acquired, as determined under section 99 above, and as a deduction from any disposal cost attributable to that property.
- (4) In section 99(1)(ii) and subsection (3) above, “the amount attributable to houses”, in relation to an acquisition under this Part, means,—
  - (a) if the property to which the acquisition relates consists of dwelling-houses which are houses and no other property, the price or, as the case may be, disposal cost specified in accordance with section 99(1)(i) above; and
  - (b) in any other case, the price or disposal cost which, under subsection (2) or subsection (3) of section 99 above, would be payable for, or attributable to, the property to which the acquisition relates if there were excluded from that property all property other than dwelling-houses which are houses.

#### **101 Tenancies granted after relevant date**

- (1) Subject to subsection (4)(a) below, this section applies to any tenancy of or licence to occupy any part of the property proposed to be acquired, being a tenancy or licence commencing,—

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- (a) in the case of property falling within paragraph (d) of subsection (1) of section 98 above, after the date of the notice under that subsection;
  - (b) in any other case, after the relevant date.
- (2) Notwithstanding anything in any enactment, a tenancy or licence to which this section applies—
- (a) shall not be a secure tenancy, and
  - (b) shall not be capable of becoming an assured tenancy or an assured agricultural occupancy,
- and neither Part II of the Landlord and Tenant Act 1954 (business tenancies) nor Parts III to VI of the Agricultural Holdings Act 1986 (tenancies of agricultural holdings, including market gardens and smallholdings) shall apply to a tenancy or licence to which this section applies.
- (3) Every tenancy or licence to which this section applies shall be determinable by the landlord or licensor by giving not less than four weeks notice to quit expiring at any time during the tenancy; and this subsection has effect whether or not the tenancy or licence is periodic and, if it is periodic, regardless of the length of the period.
- (4) The Secretary of State may make regulations—
- (a) excluding from the tenancies and licences to which this section applies a tenancy or licence of a description specified in the regulations;
  - (b) requiring the public sector landlord to give notice to the applicant of the grant of any tenancy or licence to which this section applies;
  - (c) requiring the public sector landlord to give notice of the effect of this section to any tenant or licensee under a tenancy or licence to which this section applies;
  - (d) for securing that, on the transfer of the property included in the acquisition to the applicant, the public sector landlord gives vacant possession of any property subject to a tenancy or licence to which this section applies;
  - (e) that, in so far as vacant possession is not so given, any costs or expenses attributable to the recovery of vacant possession by the applicant and any losses consequent upon the failure of the public sector landlord to give vacant possession are recoverable by the applicant from that landlord as a simple contract debt; and
  - (f) making provision for and in connection with the disapplication of this section in any case where the applicant does not proceed with the acquisition.

#### *Final procedures*

### **102 Consultations by applicant**

- (1) During such period as may be prescribed beginning with,—
- (a) if there is a determination by the district valuer under section 99 above, notification to the applicant of that determination,
  - (b) if there is no such determination, service of the landlord's notice under that section,
- the applicant shall consult, in accordance with such provisions as may be prescribed, tenants to whom this section applies.
- (2) This section applies—

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- (a) to any qualifying tenant, or tenant under a long tenancy, who on the relevant date occupied a dwelling-house proposed to be included in the acquisition and continued to occupy the dwelling during the period referred to in subsection (1) above; and
- (b) to any tenant of a description prescribed for the purposes of section 100(2) above; and
- (c) to any tenant of a description prescribed for the purposes of this section.

### **103 Notice by applicant of intention to proceed**

- (1) Subject to subsection (2) below, the applicant may, within two weeks of the end of the period mentioned in section 102 above, serve on the landlord notice of his intention to proceed with the acquisition; and in that notice the applicant, in such circumstances as may be prescribed, may inform the landlord—
  - (a) that he wishes to enter into a prescribed covenant to make payments to the landlord on the occasion of any prescribed disposal (occurring after the date of the acquisition) of a dwelling-house comprised in the property to be acquired; and
  - (b) that he requires the value of that covenant to be taken into account in reducing the price which would otherwise be payable for the property to be acquired.
- (2) The applicant shall not be entitled to serve a notice under subsection (1) above if, in response to the consultation under section 102 above,—
  - (a) less than 50 per cent. of the tenants to whom that section applies have given notice of their wishes in such manner as may be prescribed; or
  - (b) the number of tenants to whom that section applies who have given notice in that manner of their wish to continue as tenants of the landlord exceeds 50 per cent. of the total number of tenants to whom that section applies.
- (3) In any case where a tenancy is held by two or more persons jointly, those persons shall be regarded as a single tenant for the purposes of subsection (2) above and, accordingly, any notice given in response to the consultation under section 102 above shall be of no effect for the purposes of subsection (2) above unless it is given by or on behalf of all the joint tenants.
- (4) A notice under subsection (1) above shall contain—
  - (a) a list of the names and addresses of tenants to whom section 102 above applies (if any) who have given notice as mentioned in subsection (2)(b) above;
  - (b) a list of the houses (if any) which are, by virtue of regulations under section 100 above, to be excluded from the acquisition;
  - (c) a list of flats (if any) of which the applicant is required, by virtue of such regulations, to grant leases to the landlord and a statement of the proposed terms of those leases;
  - (d) such information as may be necessary to show how the lists mentioned in paragraphs (a), (b) and (c) above were established; and
  - (e) the price payable for the property to be acquired (disregarding any reduction by virtue of such a covenant as is referred to in subsection (1) above) or, as the case may be, the disposal cost attributable to that property.
- (5) Within two weeks of service of the notice under subsection (1) above, the landlord shall notify the applicant in writing of any matters stated in that notice which it does not accept.



- (6) Where a notice has been served under subsection (1) above, every tenant to whom section 102 above applies and who has not given notice as mentioned in subsection (2) (b) above shall be taken to have accepted, and to have given consideration for, any offer which—
- (a) relates to the terms on which, after the acquisition, he is to occupy the dwelling-house occupied by him on the relevant date;
  - (b) was made to him by the applicant either in the course of the consultation required by subsection (1) of section 102 above or otherwise before the end of the period referred to in that subsection; and
  - (c) was neither withdrawn by the applicant nor rejected by the tenant before the end of that period.
- (7) Regulations prescribing any of the matters referred to in subsection (1) above shall also make provision with respect to the determination of the amounts which are to be payable on the occasion of prescribed disposals; and the amount of any reduction in the price payable for the property to be acquired which is attributable to such a covenant as is referred to in that subsection shall be determined by the district valuer.

#### **104 Duty to complete and consequences of completion**

- (1) Where the applicant has served on the landlord a notice under section 103(1) above, then, as soon as any dispute as to any matters stated in that notice has been determined and, where appropriate, any determination has been made under section 103(7) above—
- (a) the landlord shall make to the applicant a grant of the property included in the acquisition for an estate in fee simple absolute, but subject to any rights to be retained by the landlord; and
  - (b) the applicant shall grant to the landlord leases of any flats of which he is required to grant leases by regulations under section 100 above.
- (2) The terms of any grant or lease under subsection (1) above shall comply with such requirements as may be prescribed.
- (3) The duties imposed by the preceding provisions of this section are enforceable by injunction.
- (4) Notwithstanding anything in section 141 of the Law of Property Act 1925 (rent and benefit of lessee's covenants to run with the reversion) any rent or other sum which—
- (a) arises under a tenancy of any property included in the acquisition, and
  - (b) falls due before the date of the grant under subsection (1) above,
- shall continue to be recoverable by the landlord to the exclusion of the applicant and of any other person in whom the reversion on the tenancy may become vested.
- (5) Without prejudice to the application of Part VIII of the Local Government, Planning and Land Act 1980 (capital expenditure of local authorities) to the price received by the landlord on the disposal (as mentioned in subsection (1)(a) above) of the property included in the acquisition, where there is a disposal cost attributable to that property any payments made by the landlord in respect of that cost shall be prescribed expenditure for the purposes of that Part.

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### *Subsequent disposals*

#### **105 Consent required for subsequent disposals**

- (1) A person who acquires any property under this Part (in this section referred to as “the new landlord”) shall not dispose of it except with the consent of the Secretary of State; but nothing in this subsection shall apply in relation to an exempt disposal, as defined in subsection (7) below.
- (2) Where an estate or interest in property acquired by the new landlord has been mortgaged or charged, the prohibition in subsection (1) above on disposal of the property without consent applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the new landlord.
- (3) In any case where—
  - (a) by operation of law or by virtue of an order of a court property which has been acquired by the new landlord passes or is transferred to another person, and
  - (b) that passing or transfer does not constitute a disposal for which consent is required under subsection (1) above,
 this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the property passes or is transferred were the new landlord.
- (4) Any consent for the purposes of subsection (1) above may be given either unconditionally or subject to conditions; but, before giving any such consent, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of the whole or any part of the property proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- (5) If, apart from subsection (6) below, the consent of the Housing Corporation or Housing for Wales would be required under section 9 of the Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal to which subsection (1) above applies, the Secretary of State shall consult that body before giving his consent in respect of that disposal for the purposes of that subsection.
- (6) No consent shall be required under the said section 9 for any disposal in respect of which consent is given in accordance with subsection (5) above.
- (7) In this section an “exempt disposal” means—
  - (a) the grant of a lease pursuant to such a requirement as is referred to in section 100(1)(b) above;
  - (b) the disposal of a dwelling-house to a person having the right to buy it under Part V of the 1985 Act (whether the disposal is in fact made under that Part or otherwise);
  - (c) a compulsory disposal, within the meaning of Part V of the 1985 Act;
  - (d) the disposal of an easement or rentcharge;
  - (e) the disposal of an interest by way of security for a loan;
  - (f) the grant of a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the 1985 Act;

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- (g) the grant of an assured tenancy, within the meaning of Part I of this Act, or what would be such a tenancy but for any of paragraphs 4 to 8 of Schedule 1 to this Act; and
  - (h) the transfer of an interest which is held on trust where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee.
- (8) In this section references to disposing of property include references to—
- (a) granting or disposing of any interest in property;
  - (b) entering into a contract to dispose of property or to grant or dispose of any such interest; and
  - (c) granting an option to acquire property or any such interest.

### *Supplemental*

#### **106 Service of information, advice and assistance**

- (1) The Corporation may provide in connection with this Part a service of information, advice and assistance to, and for the benefit of,—
- (a) persons who have been approved or are considering applying for approval under section 94 above; and
  - (b) persons who are tenants of public sector landlords.
- (2) The Corporation may make charges for information, advice and assistance provided under this section otherwise than to persons falling within subsection (1)(b) above.
- (3) The powers conferred on the Corporation by this section may be exercised by the Housing Corporation and Housing for Wales acting jointly.

#### **107 Power of Corporation to provide legal assistance to tenants in relation to acquisitions**

- (1) On an application by the tenant of a dwelling-house who is a party or a prospective party to proceedings or prospective proceedings falling within subsection (2) below, the Corporation may give assistance to the tenant if it thinks fit to do so—
- (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the tenant to deal with it without assistance; or
  - (c) by reason of any other special consideration.
- (2) The proceedings referred to in subsection (1) above are—
- (a) proceedings to determine any question arising in relation to an acquisition or proposed acquisition under this Part; and
  - (b) proceedings to determine any dispute arising after an acquisition under this Part between a transferred tenant of a dwelling-house included in the acquisition and the body by which the acquisition was made;
- and for the purposes of paragraph (b) above a tenant of a dwelling-house is a transferred tenant of it if he was the qualifying tenant of it at the time of the acquisition or is the widow or widower of the person who was then the qualifying tenant of it.

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- (3) Assistance given by the Corporation under this section may include—
- (a) giving advice;
  - (b) procuring or attempting to procure the settlement of the matter in dispute;
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel;
  - (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
  - (e) any other form of assistance which the Corporation may consider appropriate; but paragraph (d) above does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (4) In so far as expenses are incurred by the Corporation in providing the tenant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Corporation—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the tenant by any other person in respect of the matter in connection with which the assistance was given; and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;
- but subject to any charge under the Legal Aid Act 1988 and to any provision of that Act for payment of any sum to the Legal Aid Board.

## **108 Registration of title and related matters**

Schedule 12 to this Act shall have effect with respect to registration of title and related matters arising on acquisitions of property under this Part and disposals of property so acquired.

## **109 Public open space etc**

- (1) To the extent that any land held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds), or
  - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- is included in an acquisition under this Part, it shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with that section.
- (2) Nothing in section 5 of the Green Belt (London and Home Counties) Act 1938 (restrictions on alienation of land by local authorities) applies in relation to a disposal of land included in an acquisition under this Part.

## **110 Extension etc. of relevant periods**

- (1) In this section “relevant period” means any period within which anything is required by this Part to be done by either of the parties, that is to say, the applicant and the landlord.
- (2) At any time before the end of any relevant period, or any such period as previously extended under this subsection, the other party may, by a written notice served on the party to whom the requirement relates, extend or further extend that period.
- (3) Where a notice of revocation of the applicant’s approval is served under subsection (5) of section 94 above and subsequently withdrawn as mentioned in paragraph (b) of that subsection, any relevant period which, apart from this subsection, would have expired before the withdrawal shall be taken to be extended by a period equal to that beginning with the date of the service of the notice of revocation and ending on the date of the withdrawal.
- (4) Where—
  - (a) the applicant is the party to whom the requirement relates, and
  - (b) the relevant period, or that period as extended under subsection (2) above, expires without his doing what he is required by this Part to do within that period,his application claiming to exercise the right conferred by this Part shall be deemed to be withdrawn, but without prejudice to his making a further such application.

## **111 Power to prescribe forms etc**

The Secretary of State may by regulations prescribe—

- (a) anything which by this Part is to be prescribed; and
- (b) the form of any notice, statement or other document which is required or authorised to be used under or for the purposes of this Part.

## **112 Orders and regulations**

- (1) Any power of the Secretary of State to make orders or regulations under this Part shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Part, other than regulations under section 111(b) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Orders or regulations under this Part may make different provision for different cases or circumstances or different areas and may contain such incidental, supplemental or transitional provisions as the Secretary of State thinks fit.

## **113 Jurisdiction of county court**

- (1) Subject to sections 98(5) and 99(6) above, a county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part; and
  - (b) to determine any question arising under this Part.

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- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1) above notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes in the High Court proceedings which, by virtue of this section, he could have taken in the county court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court.
- (4) In a case falling within subsection (3) above the taxing master shall have the same power of directing on what scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.

#### **114 Interpretation of Part IV**

- (1) In this Part—
  - “the 1985 Act” means the Housing Act 1985;
  - “the Corporation” means the Housing Corporation or Housing for Wales but—
    - (a) an approval given by the Housing Corporation shall not have effect in relation to buildings or other property in Wales; and
    - (b) an approval given by Housing for Wales shall not have effect in relation to buildings or other property in England;
  - “qualifying tenant” shall be construed in accordance with subsections (3) and (4) of section 93 above;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “property” means land with or without buildings;
  - “public sector landlord” has the meaning given by section 93(2) above;
  - “the relevant date” has the meaning given by section 93(5) above; and
  - “habitable room”, in relation to a house, means a room used, or intended for use, as a bedroom, living room, dining room or kitchen.
- (2) Subject to subsection (1) above, in this Part expressions which are also used in Part V of the 1985 Act have the same meaning as in that Part.

### **PART V**

#### MISCELLANEOUS AND GENERAL

##### *Leases.*

#### **115 Premiums on long leases**

- (1) With respect to—
  - (a) any premium received or required to be paid after the commencement of this Act, or
  - (b) any loan required to be made after that commencement,

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section 127 of the Rent Act 1977 (allowable premiums in relation to certain long tenancies) shall have effect subject to the amendments in subsections (2) and (3) below.

(2) For subsections (2) and (3) there shall be substituted the following subsections—

“(2) The conditions mentioned in subsection (1)(a) above are—

- (a) that the landlord has no power to determine the tenancy at any time within twenty years beginning on the date when it was granted; and
- (b) that the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy;

but for the purpose of paragraph (b) above there shall be disregarded any term of the tenancy which inhibits assignment and underletting only during a period which is or falls within the final seven years of the term for which the tenancy was granted.

(3) The reference in subsection (2) above to a power or re-entry or forfeiture for breach of any term or condition of the tenancy.”

(3) Subsections (3C) and (3D) shall be omitted and in subsection (5) for “(2)(c)” there shall be substituted “(2)(b)”.

(4) Expressions used in subsection (1) above have the same meaning as in Part IX of the Rent Act 1977.

## **116 Repairing obligations in short leases**

(1) In section 11 of the Landlord and Tenant Act 1985 (repairing obligations in short leases) after subsection (1) there shall be inserted the following subsections—

“(1A) If a lease to which this section applies is a lease of a dwelling-house which forms part only of a building, then, subject to subsection (1B), the covenant implied by subsection (1) shall have effect as if—

- (a) the reference in paragraph (a) of that subsection to the dwelling-house included a reference to any part of the building in which the lessor has an estate or interest; and
- (b) any reference in paragraphs (b) and (c) of that subsection to an installation in the dwelling-house included a reference to an installation which, directly or indirectly, serves the dwelling-house and which either—

- (i) forms part of any part of a building in which the lessor has an estate or interest; or
- (ii) is owned by the lessor or under his control.

(1B) Nothing in subsection (1A) shall be construed as requiring the lessor to carry out any works or repairs unless the disrepair (or failure to maintain in working order) is such as to affect the lessee’s enjoyment of the dwelling-house or of any common parts, as defined in section 60(1) of the Landlord and Tenant Act 1987, which the lessee, as such, is entitled to use.”

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) In any case where—

- (a) the lessor’s repairing covenant has effect as mentioned in subsection (1A), and

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- (b) in order to comply with the covenant the lessor needs to carry out works or repairs otherwise than in, or to an installation in, the dwelling-house, and
- (c) the lessor does not have a sufficient right in the part of the building or the installation concerned to enable him to carry out the required works or repairs,

then, in any proceedings relating to a failure to comply with the lessor's repairing covenant, so far as it requires the lessor to carry out the works or repairs in question, it shall be a defence for the lessor to prove that he used all reasonable endeavours to obtain, but was unable to obtain, such rights as would be adequate to enable him to carry out the works or repairs."

- (3) At the end of section 14(4) of the said Act of 1985 (which excludes from section 11 certain leases granted to various bodies) there shall be added—

"a housing action trust established under Part III of the Housing Act 1988".

- (4) The amendments made by this section do not have effect with respect to—
- (a) a lease entered into before the commencement of this Act; or
  - (b) a lease entered into pursuant to a contract made before the commencement of this Act.

## **117 Certain tenancies excluded from bankrupt's estate**

- (1) In section 283 of the Insolvency Act 1986 (definition of bankrupt's estate) at the end of subsection (3) (property excluded from the estate) there shall be inserted the following subsection—

“(3A) Subject to section 308A in Chapter IV, subsection (1) does not apply to—

- (a) a tenancy which is an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977, or
- (b) a protected tenancy, within the meaning of the Rent Act 1977, in respect of which, by virtue of any provision of Part IX of that Act, no premium can lawfully be required as a condition of assignment, or
- (c) a tenancy of a dwelling-house by virtue of which the bankrupt is, within the meaning of the Rent (Agriculture) Act 1976, a protected occupier of the dwelling-house, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977, or
- (d) a secure tenancy, within the meaning of Part IV of the Housing Act 1985, which is not capable of being assigned, except in the cases mentioned in section 91(3) of that Act.”

- (2) After section 308 of that Act there shall be inserted the following section—

### **“308A Vesting in trustee of certain tenancies**

Upon the service on the bankrupt by the trustee of a notice in writing under this section, any tenancy—

- (a) which is excluded by virtue of section 283(3A) from the bankrupt's estate, and



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- (b) to which the notice relates,  
vests in the trustee as part of the bankrupt's estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to that tenancy has relation back to the commencement of the bankruptcy.”
- (3) In section 309 of that Act (time-limit for certain notices) in subsection (1)(b)—
  - (a) after the words “section 308” there shall be inserted “or section 308A”; and
  - (b) after the words “the property” there shall be inserted “or tenancy”.
- (4) In section 315 of that Act (disclaimer (general power)), in subsection (4) after the words “reasonable replacement value)” there shall be inserted “or 308A”.

### **118 Certain tenancies excluded from debtor's estate: Scotland**

- (1) In section 31 of the Bankruptcy (Scotland) Act 1985 (vesting of debtor's estate at date of sequestration) in subsection (8) after the word “means” there shall be inserted the words “, subject to subsection (9) below,”.
- (2) After the said subsection (8) there shall be added the following subsections—
  - “(9) Subject to subsection (10) below, the “whole estate of the debtor” does not include any interest of the debtor as tenant under any of the following tenancies—
    - (a) a tenancy which is an assured tenancy within the meaning of Part II of the Housing (Scotland) Act 1988, or
    - (b) a protected tenancy within the meaning of the Rent (Scotland) Act 1984 in respect of which, by virtue of any provision of Part VIII of that Act, no premium can lawfully be required as a condition of the assignation, or
    - (c) a secure tenancy within the meaning of Part III of the Housing (Scotland) Act 1987.
  - (10) On the date on which the permanent trustee serves notice to that effect on the debtor, the interest of the debtor as tenant under any of the tenancies referred to in subsection (9) above shall form part of his estate and vest in the permanent trustee as if it had vested in him under section 32(6) of this Act.”

### **119 Amendment of Landlord and tenant Act 1987**

The Landlord and Tenant Act 1987 shall have effect subject to the amendments in Schedule 13 to this Act.

#### *Rent officers*

### **120 Appointment etc. of rent officers**

Section 63 of the Rent Act 1977 (schemes for the appointment of rent officers) shall have effect subject to the amendments in Part I of Schedule 14 to this Act and after section 64 of that Act there shall be inserted the sections set out in Part II of that Schedule.

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## **121 Rent officers: additional functions relating to housing benefit etc**

- (1) The Secretary of State may by order require rent officers to carry out such functions as may be specified in the order in connection with housing benefit and rent allowance subsidy.
- (2) An order under this section—
  - (a) shall be made by statutory instrument which, except in the case of the first order to be made, shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) may make different provision for different cases or classes of case and for different areas; and
  - (c) may contain such transitional, incidental and supplementary provisions as appear to the Secretary of State to be desirable;
 and the first order under this section shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (3) In subsection (7) of section 63 of the Rent Act 1977 (expenditure arising in connection with rent officers etc.), in paragraph (a) after the words “this section” there shall be inserted “or an order under section 121 of the Housing Act 1988”.
- (4) At the end of section 21(6) of the Social Security Act 1986 (regulations prescribing maximum family credit and maximum housing benefit) there shall be added the words “and regulations prescribing the appropriate maximum housing benefit may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under section 121 of the Housing Act 1988”.
- (5) In section 30 of that Act (housing benefit finance) at the end of subsection (2) there shall be added the words “and, in relation to rent allowance subsidy, the Secretary of State may exercise his discretion as to what is unreasonable for the purposes of paragraph (b) above by reference to determinations made by rent officers in exercise of functions conferred under section 121 of the Housing Act 1988”.
- (6) In section 51(1)(h) of that Act (regulations may require information etc. needed for determination of a claim) the reference to information or evidence needed for the determination of a claim includes a reference to information or evidence required by a rent officer for the purpose of a function conferred on him under this section.
- (7) In this section “housing benefit” and “rent allowance subsidy” have the same meaning as in Part II of the Social Security Act 1986.

*Right to buy etc. and grants to obtain accommodation*

## **122 Variation of cost floor for right to buy discount**

- (1) Section 131 of the Housing Act 1985 (limits on amount of discount in relation to the right to buy) shall be amended in accordance with subsections (2) and (3) below.
- (2) In subsection (1) (the cost floor provision) for paragraph (a) there shall be substituted the following paragraph—
  - “(a) is to be treated as incurred at or after the beginning of that period of account of the landlord in which falls the date which is eight years, or such other period of time as may be specified in an order made by the Secretary of State, earlier than the relevant time, and”.

- (3) After subsection (1) there shall be inserted the following subsection—
- “(1A) In subsection (1)(a) above “period of account”, in relation to any costs, means the period for which the landlord made up those of its accounts in which account is taken of those costs.”
- (4) This section has effect in relation to the determination of discount in any case where—
- (a) the relevant time falls on or after the date on which this section comes into force; or
  - (b) paragraph (a) above does not apply but the landlord has not before that date served on the tenant a notice complying with section 125 of the Housing Act 1985; or
  - (c) the tenant has before that date claimed to exercise the right to be granted a shared ownership lease but the landlord has not before that date served on the tenant a notice complying with section 147 of that Act; or
  - (d) the tenant has before that date served a notice under paragraph 1 of Schedule 8 to that Act (claiming to exercise the right to acquire an additional share under a shared ownership lease) but the landlord has not before that date served a notice under sub-paragraph (3) of that paragraph;
- and, for the purposes of this subsection, no account shall be taken of any steps taken under section 177 of that Act (amendment or withdrawal and re-service of notice to correct mistakes).
- (5) Expressions used in subsection (4) above have the same meaning as in Part V of the Housing Act 1985.

### **123 Amendment of Schedule 5 to Housing Act 1985**

- (1) Schedule 5 of the Housing Act 1985 (exceptions to the right to buy) shall be amended in accordance with this section.
- (2) Paragraphs 6 and 8 shall be omitted.
- (3) The repeal by this Act of paragraphs 6 and 8 of Schedule 5 shall not affect the operation of either of those paragraphs in any case where the tenant’s notice claiming to exercise the right to buy was served before the repeal comes into force unless, at that time, no notice in response had been served under section 124 of the Housing Act 1985 (landlord’s notice admitting or denying right to buy).
- (4) For the purposes of subsection (3) above, no account shall be taken of any steps taken under section 177 of the Housing Act 1985 (amendment or withdrawal and re-service of notice to correct mistakes).

### **124 Right to buy: tenant’s sanction for landlord’s delays**

After section 153 of the Housing Act 1985 there shall be inserted the following sections—

#### **“153A Tenant’s notices of delay**

- (1) Where a secure tenant 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,—

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- (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 tenant'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;
- (c) where the tenant has claimed to exercise the right to be granted a shared ownership lease and the landlord has failed to serve a notice under section 146 within the period of the four weeks required by that section;
- (d) where the tenant's right to a shared ownership lease has been established and the landlord has failed to serve a notice under section 147 within the period of the eight weeks required by that section; or
- (e) where the tenant considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy or his right to be granted a shared ownership lease;

and where an initial notice of delay specifies any of the cases in paragraphs (a) to (d), 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 tenant 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 tenant a counter notice in either of the following circumstances—
  - (a) if the initial notice specifies any of the cases in paragraphs (a) to (d) of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, section 125, section 146 or section 147, 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 tenant expeditiously to exercise his right to buy or his right to be granted a shared ownership lease 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),

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

### **153B Payments of rent attributable to purchase price etc**

- (1) Where a secure tenant 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 tenant the grant required by section 138 or, as the case may be, section 150;
  - (c) the date on which the tenant serves notice under section 142(2) (claiming to be entitled to defer completion);
  - (d) the date on which the tenant withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy or, as the case may be, the notice claiming to exercise the right to be granted a shared ownership lease; and
  - (e) the date on which the tenant ceases to be entitled to exercise the right to buy.
- (2) Except where this section ceases to apply on a date determined under any of paragraphs (c) to (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
  - (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 tenant 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 or, as the case may be, the tenant’s initial contribution for the grant of a shared ownership lease 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 tenant 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.”

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## **125 Restriction on letting etc. of certain houses in National Parks etc**

- (1) Section 37 of the Housing Act 1985 (restriction on disposals of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word “his” there shall be inserted “(a)” and at the end there shall be added “and
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the authority 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 house”.
- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.
- (4) At the end of subsection (4) (disposals in breach of covenant to be void) there shall be added “and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the local authority as if—
  - (a) the authority 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”.
- (5) After subsection (4) there shall be inserted the following subsection—
 

“(4A) 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.”
- (6) This section has effect where the conveyance, grant or assignment referred to in subsection (1) of section 37 is executed on or after the commencement of this Act.

## **126 Restriction on disposal of dwelling-houses in National Parks etc. acquired under the right to buy**

- (1) In Part V of the Housing Act 1985 (the right to buy), section 157 (restriction on disposal of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word “his” there shall be inserted “(a)” and at the end there shall be added “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 dwelling-house”.
- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.

- (4) At the end of subsection (6) (disposals in breach of covenant to be void) there shall be added “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”.
- (5) After subsection (6) there shall be inserted the following subsection—
- “(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.”
- (6) This section has effect where the conveyance or grant referred to in subsection (1) of section 157 is executed on or after the commencement of this Act.

## **127 Preserved right to buy**

- (1) In subsection (4) of section 171B of the Housing Act 1985 for paragraph (a) there shall be substituted the following paragraphs—
- “(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”.
- (2) In subsection (2)(a) of section 171C of that Act after the word “paragraphs” there shall be inserted “1, 3 and”.
- (3) After subsection (4) of that section there shall be added the following subsection—
- “(5) The disapplication by the regulations of paragraph 1 of Schedule 5 shall not be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.”

## **128 Preservation of right to buy on disposal to private sector landlord: Scotland**

After section 81 of the Housing (Scotland) Act 1987 there shall be inserted the following section—

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*Status: This is the original version (as it was originally enacted).*

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*“Preservation of right to buy on disposal to private sector landlord*

**81A Preservation of right to buy on disposal to private sector landlord**

- (1) The right to buy provisions shall continue to apply where a person ceases to be a secure tenant of a house by reason of the disposal by the landlord of an interest in the house to a private sector landlord.
- (2) The right to buy provisions shall not, however, continue to apply under subsection (1) in such circumstances as may be prescribed.
- (3) The continued application under subsection (1) of the right to buy provisions shall be in accordance with and subject to such provision as is prescribed which may—
  - (a) include—
    - (i) such additions and exceptions to, and adaptations and modifications of, the right to buy provisions in their continued application by virtue of this section; and
    - (ii) such incidental, supplementary and transitional provisions; as the Secretary of State considers appropriate;
  - (b) differ as between different cases or descriptions of case and as between different areas;
  - (c) relate to a particular disposal.
- (4) Without prejudice to the generality of subsection (3), provision may be made by virtue of it—
  - (a) specifying the persons entitled to the benefit of the right to buy provisions in their continued application by virtue of this section;
  - (b) preventing, except with the consent of the Secretary of State, the disposal by the private sector landlord of less than his whole interest in a house in relation to which the right to buy provisions continue to apply by virtue of this section;
  - (c) ensuring that where, under Ground 9 of Schedule 5 to the Housing (Scotland) Act 1988 (availability of suitable alternative accommodation), the sheriff makes an order for possession of a house in relation to which the right to buy provisions continue to apply by virtue of this section and the tenant would not have the right under this Part (other than this section) to buy the house which is or will be available by way of alternative accommodation, these provisions as so continued will apply in relation to the house which is or will be so available.
- (5) In this section—
  - (a) “secure tenant” means a tenant under a secure tenancy;
  - (b) “private sector landlord” means a landlord other than one of those set out in sub-paragraphs (i) to (iv) and (viii) and (ix) of paragraph (a) of subsection (2) of section 61;
  - (c) the “right to buy provisions” means the provisions of this Act relating to the right of a tenant of a house to purchase it under this Part and to his rights in respect of a loan.”



## **129 Schemes for payments to assist local housing authority tenants to obtain other accommodation**

- (1) In accordance with a scheme made by a local housing authority and approved by the Secretary of State under this section, the authority may make grants to or for the benefit of qualifying tenants or licensees of the authority with a view to assisting each person to whom or for whose benefit a grant is made to obtain accommodation otherwise than as a tenant or licensee of the authority either—
  - (a) by acquiring an interest in a dwelling-house; or
  - (b) by carrying out works to a dwelling-house to provide additional accommodation; or
  - (c) by both of those means.
- (2) A scheme under this section shall contain such provisions as the local housing authority considers appropriate together with any which the Secretary of State may require as a condition of his approval and, without prejudice to the generality, a scheme may include provisions specifying, or providing for the determination of—
  - (a) the persons who are qualifying tenants or licensees for the purposes of the scheme;
  - (b) the interests which qualifying tenants or licensees may be assisted to acquire;
  - (c) the works for the carrying out of which grants may be made;
  - (d) the circumstances in which a grant may be made for the benefit of a qualifying tenant or licensee;
  - (e) the amount of the grant which may be made in any particular case and the terms on which it may be made;
  - (f) the limits on the total number and amount of grants which may be made; and
  - (g) the period within which the scheme is to apply.
- (3) The Secretary of State may approve a scheme made by a local housing authority under this section with or without conditions and, where a scheme has been approved, the authority shall take such steps as it considers appropriate to bring the scheme to the attention of persons likely to be able to benefit from it and shall take such other steps (if any) as the Secretary of State may direct in any particular case to secure publicity for the scheme.
- (4) The Secretary of State may revoke an approval of a scheme under this section by a notice given to the local housing authority concerned; and, where such a notice is given, the revocation shall not affect the operation of the scheme in relation to any grants made or agreed before the date of the notice.
- (5) Any grant made pursuant to a scheme under this section—
  - (a) shall be regarded as a grant of a capital nature for the purposes of Part VIII of the Local Government, Planning and Land Act 1980 (capital expenditure of local authorities); and
  - (b) shall be regarded as expenditure on management for the purposes of Part II of Schedule 14 to the Housing Act 1985 (debits to the Housing Revenue Account).
- (6) Where a scheme made by a local housing authority under this section has been approved, a person dealing with the authority shall not be concerned to see or enquire whether the terms of the scheme have been or are being complied with; and any failure to comply with the terms of a scheme shall not invalidate any grant purporting to be

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made in accordance with the scheme unless the person to whom the grant is made has actual notice of the failure.

- (7) In this section—
- (a) “local housing authority” has the meaning assigned by section 1 of the Housing Act 1985;
  - (b) “dwelling-house” has the meaning assigned by section 112 of that Act; and
  - (c) “tenant” does not include a tenant under a long tenancy, as defined in section 115 of that Act.

### *Repair notices and improvement grants*

## **130 Repair notices**

- (1) Part VI of the Housing Act 1985 (repair notices) shall have effect subject to the amendments in Schedule 15 to this Act.
- (2) In section 604 of that Act (fitness for human habitation) after subsection (1) there shall be inserted the following subsection—
 

“(1A) In the application, for the purposes of Part VI, of subsection (1) to premises consisting of a flat, within the meaning of that Part, regard shall be had not only to the condition of the flat itself but also to the condition of any other part of the building as it affects the flat and, accordingly, the flat may be deemed to be unfit by reference to the defective condition of a part of the building outside the flat (whether or not that part is itself used, or suitable for use, as a dwelling).”
- (3) The amendments in subsection (2) above and Schedule 15 to this Act do not have effect in relation to any repair notice, within the meaning of the said Part VI, served before this section comes into force.

## **131 Letting conditions applicable to improvement grants etc**

- (1) With respect to applications for grants approved after the commencement of this Act, Part XV of the Housing Act 1985 (grants for works of improvement, repair and conversion) shall have effect subject to the following provisions of this section.
- (2) In each of the following provisions—
  - (a) section 464 (preliminary condition: certificates as to future occupation), in subsection (5) (certificate of availability for letting), and
  - (b) section 501 (condition as to availability for letting), in subsection (2) (the terms of the condition),

in paragraph (a) after the word “holiday” there shall be inserted “on a tenancy which is not a long tenancy and”.
- (3) After the words “Rent (Agriculture) Act 1976”, in each place where they occur in—
  - (a) section 464(5),
  - (b) section 501(2), and
  - (c) subsection (2)(d) of section 503 (restriction on imposition of further conditions in relation to certain grants),

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there shall be inserted “or is occupied under an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988”.

- (4) In section 504 (further conditions as to letting of dwelling), at the beginning of subsection (1) there shall be inserted the words “Subject to subsection (1A)”; in paragraph (a) of that subsection after the word “letting” there shall be inserted “on an assured tenancy which is not a long tenancy or”; and at the end of that subsection there shall be inserted the following subsection—

“(1A) Paragraphs (d) to (f) of subsection (1) do not apply in the case of a dwelling which is or is to be let or available for letting on an assured tenancy.”

- (5) In subsection (2) of section 504 (definitions) after the words “subsection (1)” there shall be inserted “and subsection (1A)” and before paragraph (a) there shall be inserted the following paragraph—

“(aa) “assured tenancy” means a tenancy which is an assured tenancy within the meaning of Part I of the Housing Act 1988 or would be such a tenancy if paragraphs 3, 6, 7 and 10 of Schedule 1 to that Act were omitted”.

- (6) In section 526 (index of defined expressions in Part XV), after the entry relating to “local housing authority” there shall be inserted—

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“long tenancy    ...    ...    ...    ...    ...    ...    section 115”.

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- (7) Without prejudice to subsection (1) above, where an application for a grant—  
(a) was made but not approved before the commencement of this Act, and  
(b) was accompanied by a certificate of availability for letting in a form which does not take account of the amendments of section 464(5) by subsections (2) and (3) above,

the certificate shall be treated as if it were in a form which takes account of the amendments made by those subsections.

- (8) Without prejudice to subsection (1) above, where a grant has been approved before the commencement of this Act and—

- (a) section 501(2) applies to impose a condition of the grant, or  
(b) conditions have been imposed in terms of section 504(1),

the condition or conditions shall have effect as if it or they were in a form which takes account of the amendments made by subsection (3) or, as the case may be, subsections (4) and (5) above.

### *Disposals of housing stock*

## **132 Consents to disposals of housing stock and application of receipts**

- (1) At the end of subsection (4) of section 34 of the Housing Act 1985 (consent to disposals of land held for the purposes of Part II—provision of housing accommodation) and at the end of subsection (4) of section 43 of that Act (consent for certain disposals of other houses) there shall be inserted the subsections set out in subsection (2) below.
- (2) The subsections referred to in subsection (1) above and subsection (3) below are as follows—

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“(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—

- (a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as “the intending purchaser”) is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
- (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
- (c) the terms of the proposed disposal; and
- (d) any other matters whatsoever which he considers relevant.

(4B) Where the Secretary of State gives consent to a disposal by a local authority, he may give directions as to the purpose for which any capital money received by the authority in respect of the disposal is to be applied and, where any such directions are given, nothing in any enactment shall require his consent to be given for the application of the capital money concerned in accordance with the directions.”

- (3) Section 13 of the Housing (Scotland) Act 1987 (power of Secretary of State to impose conditions in sale of local authority houses) shall be renumbered as subsection (1) of that section and after that subsection there shall be inserted as subsections (2) and (3) the subsections which are set out in subsection (2) above and there numbered (4A) and (4B).
- (4) In section 153 of the Local Government Act 1972 (application of capital money on disposal of land), in subsection (1) after the words “127(4) above” there shall be inserted “to any directions given in respect of the disposal under section 43(4B) of the Housing Act 1985”.
- (5) In section 430 of the Housing Act 1985 (application of capital money received on disposal of land), in subsection (1) after the word “applied”, in the first place where it occurs, there shall be inserted “in accordance with any directions given in respect of the disposal under section 34(4B) or section 43(4B) and, subject thereto”.
- (6) In section 208 of the Housing (Scotland) Act 1987 (application of receipts from disposal of certain land), in subsection (2) there shall be inserted at the end the words “or has made directions under section 13(3)”.
- (7) In section 26 of the Local Government Act 1988 (provisions as to consents under section 25 for provision of financial assistance etc.), in subsection (5) (which excludes consent under various enactments where consent is given to a disposal of land under section 25) after the words “such a consent” there shall be inserted “then, if the consent given for the purposes of section 25 above so provides”.
- (8) This section shall be deemed to have come into force on 9th June 1988.

### **133 Consent required for certain subsequent disposals**

- (1) Where consent is required for a disposal (in this section referred to as “the original disposal”) by virtue of section 32 or section 43 of the Housing Act 1985 and that

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consent does not provide otherwise, the person who acquires the land or house on the disposal shall not dispose of it except with the consent of the Secretary of State; but nothing in this section shall apply in relation to an exempt disposal as defined in section 81(8) above.

(2) Where an estate or interest of the person who acquired the land or house on the original disposal has been mortgaged or charged, the prohibition in subsection (1) above applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the person who so acquired the land or house; and in any case where—

- (a) by operation of law or by virtue of an order of a court, the land or house which has been acquired passes or is transferred from the person who so acquired it to another person, and
- (b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the land or house passes or is transferred were the person who acquired it on the original disposal.

(3) Where subsection (1) above applies—

- (a) if section 34 of the Housing Act 1985 applies to the consent given to the original disposal, subsections (2)(b) and (3) to (4A) of that section shall also apply to any consent required by virtue of this section;
- (b) if the consent to the original disposal was given under section 43 of that Act, subsections (2)(b) and (3) to (4A) of that section shall also apply to any consent required by virtue of this section;
- (c) in the application of subsection (4A) of section 34 or section 43 to any consent required by virtue of this section, any reference to the local authority making the disposal shall be construed as a reference to the local authority making the original disposal; and
- (d) the instrument by which the original disposal is effected shall contain a statement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the land or house by the person to whom the original disposal was made.

(4) Subsection (4) of section 32 of the Housing Act 1985 or, as the case may be, subsection (5) of section 43 of that Act (options to purchase as disposals) applies for the purposes of this section.

(5) Before giving any consent required by virtue of this section, the Secretary of State—

- (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any land or house proposed to be disposed of; and
- (b) shall have regard to the responses of any such tenants to that consultation.

(6) If, apart from subsection (7) below, the consent of the Housing Corporation or Housing for Wales would be required under section 9 of the Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.

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- (7) No consent shall be required under the said section 9 for any disposal in respect of which consent is given in accordance with subsection (6) above.
- (8) Where the title of the authority to the land or house which is disposed of by the original disposal is not registered, and the original disposal is a conveyance, grant or assignment of a description mentioned in section 123 of the Land Registration Act 1925 (compulsory registration of title)—
- (a) that section applies in relation to the instrument by which the original disposal is effected whether or not the land or house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force;
  - (b) the authority shall give to the person to whom the original disposal is made a certificate in a form approved by the Chief Land Registrar stating that the authority is entitled to make the disposal subject only to such encumbrances, rights and interests as are stated in the instrument by which the original disposal is effected or summarised in the certificate; and
  - (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as 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 1986 the authority by whom the original disposal was made is liable to indemnify him.
- (9) On an application being made for registration of a disposition of registered land or, as the case may be, of the title under a disposition of unregistered land, if the instrument by which the original disposal is effected contains the statement required by subsection (3)(d) above, the Chief Land Registrar shall enter in the register a restriction stating the requirement of this section as to consent to a subsequent disposal.
- (10) In every case where the consent of the Secretary of State is required for the original disposal by virtue of section 32 or section 43 of the Housing Act 1985 (whether or not consent is required under this section to a subsequent disposal), the authority by which the original disposal is made shall furnish to the person to whom it is made a copy of that consent.

#### **134 Consent required for certain subsequent disposals: Scotland**

In Part I of the Housing (Scotland) Act 1987 (provision of housing) after section 12 there shall be inserted the following section—

##### **“12A Consent of Secretary of State required for certain subsequent disposals**

- (1) Where a person acquires any land or house from a local authority under section 12(1)(c) or (d) above and the consent of the Secretary of State is required under section 12(7) above to the local authority’s disposal of the land or house to that person, that person shall not dispose of the land or house without the consent in writing of the Secretary of State.
- (2) Any consent for the purposes of subsection (1) above may be given either in respect of a particular disposal or in respect of disposals of any class or description (including disposals in particular areas) and either unconditionally or subject to conditions.

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- (3) Before giving any consent for the purposes of subsection (1) above, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any land or house proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- (4) The consent of Scottish Homes under section 9 of the Housing Associations Act 1985 (control of dispositions) is not required for any disposal, or disposals of any class or description, in respect of which consent is given under subsection (1) above.
- (5) In this section references to disposing of property include references to—
  - (a) granting or disposing of any interest in property;
  - (b) entering into a contract to dispose of property or to grant or dispose of any such interest; and
  - (c) granting an option to acquire property or any such interest.”

### **135 Consultation before disposal: Scotland**

- (1) In Part III of the Housing (Scotland) Act 1987 (rights of public sector tenants) after section 81 there shall be inserted the following section—

*“Consultation before disposal to private sector landlord*

#### **81B Consultation before disposal to private sector landlord**

The provisions of Schedule 6A have effect with respect to the duties of—

- (a) a local authority proposing to dispose of houses let on secure tenancies;
  - (b) the Secretary of State in considering whether to give his consent under section 12(7) to such a disposal,
- to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants (that is to say, tenants under secure tenancies).”
- (2) After Schedule 6 to the Housing (Scotland) Act 1987 there shall be inserted, as Schedule 6A, the Schedule set out in Schedule 16 to this Act.
  - (3) The amendments made by this section apply to disposals after the coming into force of this section.

### **136 Application of capital money to meet costs of disposals of land**

- (1) At the end of section 430 of the Housing Act 1985 (application of capital money received on disposal of land) there shall be inserted the following subsection—

“(3) In the case of capital money received by a local authority in respect of—

- (a) disposals of land held for the purposes of Part II (provision of housing), and

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- (b) any other disposals of land made by virtue of Part V (the right to buy) which do not fall within paragraph (a),
- the reference in subsection (1) to any other purpose for which capital money may properly be applied includes a reference to the purpose of meeting the administrative costs of and incidental to such disposals; and, accordingly, the reference in subsection (2) to subsection (1) includes a reference to that subsection as extended by virtue of this subsection.”
- (2) In section 72 of the Local Government, Planning and Land Act 1980 (expenditure which authorities may make), in subsection (7) (net capital receipts for any year defined as the receipts which are capital receipts for the purposes of Part VIII of that Act, reduced by certain payments) after the words “reduced by” there shall be inserted—
- “(a) any amount of capital money which in that year is applied for the purpose specified in section 430(3) of the Housing Act 1985 (meeting administrative costs of and incidental to certain disposals of land); and
- (b)”.

### *Codes of practice*

#### **137 Codes of practice in field of rented housing**

- (1) Section 47 of the Race Relations Act 1976 (codes of practice) shall be amended in accordance with the following provisions of this section.
- (2) In subsection (1) for the words “either or both” there shall be substituted the words “all or any” and at the end there shall be added the following paragraphs—
- “(c) the elimination of discrimination in the field of housing let on tenancies or occupied under licences (“the field of rented housing”);
- (d) the promotion of equality of opportunity in the field of rented housing between persons of different racial groups”.
- (3) In subsection (3), after the words “code of practice” there shall be inserted “relating to the field of employment” and after that subsection there shall be inserted the following subsection—
- “(3A) In the course of preparing any draft code of practice relating to the field of rented housing for eventual publication under subsection (2) the Commission shall consult with such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.”
- (4) In subsection (4) for the words “the draft” there shall be substituted “a draft code of practice”.
- (5) In subsection (10) after the words “industrial tribunal” there shall be inserted “a county court or, in Scotland, a sheriff court” and after the words “the tribunal” there shall be inserted “or the court”.



### *Supplementary*

#### **138 Financial provisions**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required for the payment by the Secretary of State of grants under this Act;
  - (b) any sums required to enable the Secretary of State to make payments to housing action trusts established under Part III of this Act;
  - (c) any other expenses of the Secretary of State under this Act; and
  - (d) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act, other than those required to be paid into the National Loans Fund, shall be paid into the Consolidated Fund.

#### **139 Application to Isles of Scilly**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **140 Amendments and repeals**

- (1) Schedule 17 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act and the Housing (Scotland) Act 1988, shall have effect and in that Schedule Part I contains general amendments and Part II contains amendments consequential on the establishment of Housing for Wales.
- (2) The enactments specified in Schedule 18 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule and to any saving in Chapter V of Part I of or Schedule 17 to this Act.

#### **141 Short title, commencement and extent**

- (1) This Act may be cited as the Housing Act 1988.
- (2) The provisions of Parts II and IV of this Act and sections 119, 122, 124, 128, 129, 135 and 140 above shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.
- (3) Part I and this Part of this Act, other than sections 119, 122, 124, 128, 129, 132, 133, 134, 135 and 138 onwards, shall come into force at the expiry of the period of two months beginning on the day it is passed; and any reference in those provisions to the commencement of this Act shall be construed accordingly.

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- (4) An order under subsection (2) above may make such transitional provisions as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.
- (5) Parts I, III and IV of this Act and this Part, except sections 118, 128, 132, 134, 135 and 137 onwards, extend to England and Wales only.
- (6) This Act does not extend to Northern Ireland.