



Housing Act 1980

1980 CHAPTER 51

PART I

PUBLIC SECTOR TENANTS

CHAPTER I

THE RIGHT TO BUY

1 Right to acquire freehold or long lease

- (1) A secure tenant has the right—
 - (a) if the dwelling-house is a house, to acquire the freehold of the dwelling-house;
 - (b) if the dwelling-house is a flat, to be granted a long lease of the dwelling-house ; and
 - (c) in either case, to leave the whole or part of the aggregate amount mentioned in section 9(1) outstanding on the security of a first mortgage of the dwelling-house or, if the landlord is a housing association, to have the whole or part of that amount advanced to him on that security by the Housing Corporation ;in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Chapter.
- (2) In this Chapter the right mentioned in subsection (1)(a) and (b) above is referred to as the right to buy and that mentioned in subsection (1)(c) above as the right to a mortgage.
- (3) The right to buy only arises after the secure tenant has been a secure tenant for a period of not less than three years or for periods amounting together to not less than three years; but—
 - (a) neither the landlord nor the dwelling-house need have been the same during the whole of that period; and
 - (b) any period during which the secure tenant was a tenant of a body specified in subsection (1) or (2) of section 2 shall be left out of account; and

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- (c) this subsection is subject to subsections (4) to (7) below.
- (4) In determining whether the condition in subsection (3) above is satisfied a person who, as a joint tenant under a secure tenancy, occupied a dwelling-house as his only or principal home shall be treated as the secure tenant under that tenancy; and where the secure tenancy is a joint tenancy that condition need be satisfied with respect to one only of the joint tenants.
- (5) Where the secure tenant became a secure tenant on the death of his spouse, and at the time of the death they occupied the same dwelling-house as their only or principal home, any period during which the deceased spouse was a secure tenant is to be counted for the purposes of subsection (3) above unless excluded by paragraph (b) of that subsection.
- (6) In determining whether the condition in subsection (3) above is satisfied in the case of a person who is, or of persons one of whom is, a previous purchaser, a period counts as a period during which the previous purchaser or his spouse was a secure tenant only if it fell after the completion of the previous purchase or, if more than one, the last of them.
- (7) In subsection (6) above " previous purchaser" means a person who has exercised the right to buy or the right to purchase conferred by Part I of the Tenants' Rights, Etc. (Scotland) Act 1980 on a previous occasion (whether he has exercised it alone or jointly with another person) and " previous purchase " has a corresponding meaning.
- (8) References in this Chapter to the purchase price include references to the consideration for the grant of a long lease.

2 Exceptions to right to buy

- (1) The right to buy does not arise if the landlord is a housing trust which is a charity within the meaning of the Charities Act 1960.
- (2) The right to buy does not arise if the landlord is a housing association which either—
- (a) is a charity (within the meaning of the Charities Act 1960); or
 - (b) falls within paragraph (d) of section 15(3) of the 1977 Act (certain societies registered under the Industrial and Provident Societies Act 1965); or
 - (c) has at no time received a grant under section 119(3) of the 1957 Act, section 29, 31, 32 or 33 of the 1974 Act or under any enactment mentioned in paragraph 2 of Schedule 2 to that Act.
- (3) The right to buy does not arise unless the landlord owns the freehold.
- (4) Subject to subsection (5) below, the right to buy—
- (a) does not arise in any of the circumstances mentioned in Part I of Schedule 1 to this Act, and
 - (b) cannot be exercised in any of the circumstances mentioned in Part II of that Schedule.
- (5) The Secretary of State may by order enable the right to buy to be exercised in relation to dwelling-houses held by local authorities otherwise than under Part V of the 1957 Act or such descriptions of such dwelling-houses as may be specified in the order; and any such order may contain such supplementary provisions, including provisions modifying the following provisions of this Chapter, as appear to the Secretary of State necessary or expedient

3 Meaning of "house", "flat", "dwelling-house" and "relevant time "

- (1) The following provisions apply to the interpretation of "house", "flat", "dwelling-house" and "relevant time" when used in this Chapter.
- (2) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of section 50(2) of this Act) is a structure reasonably so called; so that—
 - (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses; and
 - (b) where a building is divided vertically, the units into which it is divided may be houses; and
 - (c) where a building is not structurally detached it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) Any dwelling-house which is not a house is a flat.
- (4) There shall be treated as included in the dwelling-house any land used for the purposes of the dwelling-house which the landlord and the tenant agree to include.
- (5) The relevant time is the date on which the tenant's notice claiming to exercise the right to buy is served; except that, if that notice is served within six months of the commencement of this Chapter, the relevant time is the date on which this Act is passed.

4 Joint tenants and members of family occupying dwelling-house otherwise than as joint tenants

- (1) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy and the right to a mortgage belong jointly to all of them or to such one or more of them as may be validly agreed between them; and the agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.
- (2) A secure tenant may, in his notice under section 5 claiming to exercise the right to buy, require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him ; but he may validly do so in the case of any such member only if—
 - (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice; or
 - (b) the landlord consents.
- (3) Where by such a notice any members of the tenant's family are validly required to share the right to buy with the tenant, both the right to buy and the right to a mortgage belong to the tenant and those members jointly and he and they shall be treated for the purposes of this Chapter as joint tenants.

5 Notice claiming exercise of right to buy

- (1) Where a secure tenant serves on the landlord a written notice claiming to exercise the right to buy, the landlord shall (unless the notice is withdrawn) serve on the tenant, within four weeks, or in a case falling within subsection (2) below, eight weeks, either—

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- (a) a written notice admitting the tenant's right; or
 - (b) a written notice denying the tenant's right and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to buy.
- (2) A case falls within this subsection if the periods counting towards the three years required by section 1(3) above include a period during which the landlord was not the landlord on which the tenant's notice under subsection (1) above is served.
- (3) A tenant's notice under subsection (1) above may be withdrawn at any time by notice in writing served on the landlord.

6 Purchase price

- (1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Chapter is—
- (a) the amount which, under this section, is to be taken as its value at the relevant time; less
 - (b) the discount to which the purchaser is entitled under this Chapter.
- (2) The value of a dwelling-house at the relevant time shall be taken to be the price which, at that time, it would realise if sold on the open market by a willing vendor on the assumptions stated, for a conveyance, in subsection (3) below and, for a grant, in subsection (4) below, and disregarding any improvements made by any of the persons specified in subsection (5) below and any failure by any of those persons to keep the dwelling-house in good internal repair.
- (3) For a conveyance the assumptions are that—
- (a) the vendor was selling for an estate in fee simple with vacant possession;
 - (b) neither the tenant nor a member of his family residing with him wanted to buy; and
 - (c) the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Chapter.
- (4) For the grant of a lease the assumptions are that—
- (a) the vendor was granting a lease for 125 years with vacant possession (subject to paragraph 11(2) of Schedule 2 to this Act);
 - (b) neither the tenant nor a member of his family residing with him wanted to take the lease ;
 - (c) the ground rent would not exceed £10 per annum ; and
 - (d) the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Chapter.
- (5) The persons mentioned in subsection (2) above are—
- (a) the secure tenant;
 - (b) any person who under the same tenancy was a secure tenant before him ; and
 - (c) any member of his family who, immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy.

7 Discount

- (1) A person exercising the right to buy is entitled to a discount equal, subject to the following provisions of this section, to the following percentage of the price before discount, that is to say—
 - (a) if the period to be taken into account under subsection (5) below is less than four years, 33 per cent.; and
 - (b) if that period is four years or more, 33 per cent, plus one per cent, for each complete year by which that period exceeds three years, but not together exceeding 50 per cent.
- (2) The discount shall not reduce the price below the amount which, in accordance with any determination made by the Secretary of State, is to be taken as representing so much of the costs incurred in respect of the dwelling-house as, in accordance with the determination, is to be treated as incurred after 31st March 1974 and as relevant for the purposes of this subsection ; and if the price before discount is below that amount, there shall be no discount.
- (3) A determination under subsection (2) above may make different provision for different cases or descriptions of case, including different provision for different areas, and may provide for exceptions from the requirements of that subsection.
- (4) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.
- (5) The period to be taken into account for the purposes of the discount is, subject to the following provisions of this section, the aggregate of the periods during which, before the service of the notice claiming to exercise the right to buy.—
 - (a) the secure tenant or his spouse or deceased spouse was either a secure tenant or the spouse of a secure tenant; or
 - (b) the secure tenant occupied accommodation provided for him as a member of the regular armed forces of the Crown or the secure tenant's spouse occupied accommodation so provided for the secure tenant's spouse.
- (6) A period shall be taken into account under subsection (5)(a) above whether or not the dwelling-house or the landlord was the same as at the time of the service of the notice claiming to exercise the right to buy, unless the landlord was then a body specified in subsection (1) or (2) of section 2 of this Act; but—
 - (a) no period during which the tenant's spouse was a secure tenant or the spouse of a secure tenant shall be so taken into account unless both the secure tenant and his spouse occupied the dwelling-house as their only or principal home at the time of the service of the notice; and
 - (b) no period during which the tenant's deceased spouse was a secure tenant or the spouse of a secure tenant shall be so taken into account unless the tenant became the secure tenant on the death of his spouse and at the time of the death both occupied the dwelling-house as their only or principal home; and
 - (c) a period during which either the tenant or his spouse or deceased spouse was the spouse of a secure tenant shall be taken into account only if during that period the spouses occupied the same dwelling-house as their only or principal home; and
 - (d) subsection (5)(b) above applies only if the secure tenant or, as the case may be, his spouse was a member of the regular armed forces of the Crown on or after 21st December 1979.

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- (7) For the purposes of subsections (5) and (6) above a person who, as a joint tenant under a secure tenancy, occupied a dwelling-house as his only or principal home shall be treated as the secure tenant under that tenancy; and where the right to buy is exercised by joint tenants those subsections shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.
- (8) Where the person or one of the persons exercising the right to buy, or the spouse or deceased spouse of that person or of any of those persons, is or was a previous purchaser, a period shall be taken into account as a period during which the previous purchaser was, or was the spouse of, a secure tenant or during which he or his spouse occupied accommodation provided for him or his spouse as a member of the regular armed forces of the Crown, only if it falls after the completion of the previous purchase or, if more than one, the last of them.
- (9) Subsections (5) to (8) above shall have effect as if—
- (a) the references to a secure tenancy included a tenancy which either was a secure tenancy within the meaning of the Tenants' Rights, Etc. (Scotland) Act 1980 or would have been such a tenancy if Part II of that Act had been in force and the bodies mentioned in section 10(2) of that Act had included the predecessor of any such body; and
 - (b) the references to a secure tenant included the tenant under such a tenancy as is mentioned in paragraph (a) above, except when the landlord was a body specified in paragraph (e) or (g) of section 10(2) of the Act of 1980, and also included a tenant of the Northern Ireland Housing Executive or of a predecessor of that Executive.
- (10) In subsection (8) above " previous purchaser " and " previous purchase " have the same meaning as in section 1(6) above,
- (11) In this section " regular armed forces of the Crown " has the same meaning as in section 1 of the House of Commons Disqualification Act 1975.

8 Repayment of discount on early disposal of freehold or lease

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Chapter shall (unless there is no discount) contain a covenant binding on the secure tenant and his successors in title to pay to the landlord on demand the amount specified in subsection (2) below if, within a period of five years, there is a disposal falling within subsection (3) below; but if there is more than one such disposal, then only on the first of them.
- (2) The amount payable under the covenant is an amount equal to the discount to which the secure tenant was entitled, but reduced by 20 per cent, of that discount for each complete year which elapses after the conveyance or grant and before the disposal.
- (3) A disposal falls within this subsection if it is—
- (a) a further conveyance of the freehold or an assignment of the lease; or
 - (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent;

whether the disposal is of the whole or part of the dwelling-house ; but a disposal in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 or under section 2 of the Inheritance (Provision for Family and Dependents) Act 1975

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or a vesting in a person taking under a will or on an intestacy is not a disposal falling within this subsection.

- (4) The liability that may arise under the covenant required by subsection (1) above shall be a charge on the dwelling-house—
 - (a) taking effect as if it had been created by deed expressed to be by way of legal mortgage ; and
 - (b) having priority immediately after any legal charge securing any amount left outstanding by the tenant in exercising the right to buy or advanced to him by a body specified in subsection (5) below for the purpose of enabling him to exercise it or further advanced to him by that body.
- (5) The bodies referred to in subsection (4)(b) above are—
 - (a) the Housing Corporation;
 - (b) any building society ; and
 - (c) any of the bodies specified in paragraph 6, 7 or 8 of the Schedule to the Home Purchase Assistance and Housing Corporation Guarantee Act 1978.
- (6) A charge taking effect by virtue of subsection (4) above shall, notwithstanding subsection (5) of section 59 of the Land Registration Act 1925, be a land charge for the purposes of that section, and subsection (2) of that section shall apply accordingly with respect to its protection and realisation.
- (7) The reference in subsection (3) above to a lease or sublease does not include a mortgage term.
- (8) In this section " building society " means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967; and for the purposes of this section the grant of an option enabling a person to call for a disposal falling within subsection (3) above shall be treated as such a disposal.

9 Right to a mortgage-amount to be secured

- (1) The amount which a secure tenant exercising the right to a mortgage is entitled to leave outstanding, or have advanced to him, on the security of the dwelling-house is, subject to the limit imposed by this section, the aggregate of—
 - (a) the purchase price;
 - (b) so much of the costs incurred by the landlord or the Housing Corporation as is chargeable to the tenant under section 21 ; and
 - (c) any costs incurred by the tenant and defrayed on his behalf by the landlord or the Housing Corporation.
- (2) The amount mentioned in subsection (1) above is subject to the limit that it does not exceed the amount to be taken into account, in accordance with regulations under this section, as the tenant's available annual income multiplied by such factor as, under the regulations, is appropriate to it.
- (3) Where the right to a mortgage belongs to more than one person the limit is the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.

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- (4) The Secretary of State may by regulations make provision for calculating the amount which is to be taken into account under this section as a person's available annual income and for specifying a factor appropriate to it; and the regulations —
- (a) may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income; and
 - (b) may (without prejudice to the generality of section 151(3) of this Act) specify different amounts and different factors for different circumstances.
- (5) Where the amount which a secure tenant is entitled to leave outstanding on the security of the dwelling-house is reduced by the limit imposed by this section, the landlord may, if it thinks fit and the tenant agrees, treat him as entitled to leave outstanding on that security such amount exceeding the limit but not exceeding the aggregate mentioned in subsection (1) above as the landlord may determine.

10 Notice of purchase price and right to a mortgage

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise) the landlord shall, as soon as practicable, serve on the tenant a notice describing the dwelling-house and stating—
- (a) the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the long lease granted to him; and
 - (b) the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.
- (2) The notice shall, for the purpose of showing how the price has been arrived at, state—
- (a) the value at the relevant time ;
 - (b) the discount to which the tenant is entitled, stating—
 - (i) the period to be taken into account under section 7(5); and, where applicable,
 - (ii) the amount mentioned in section 7(2) or (4); and
 - (c) the improvements disregarded in pursuance of section 6.
- (3) The notice shall also inform the tenant—
- (a) of his right under section 11 to have the value at the relevant time determined or re-determined by the district valuer;
 - (b) of the right to a mortgage ; and
 - (c) of the effect of section 12 and section 16(4) below ;
- and shall be accompanied by a form for use by the tenant in exercising the right to a mortgage.

11 Right of tenant to have value determined by district valuer

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

- (2) A tenant may require that value to be determined or, as the case may be, re-determined by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 10 ; except that—
 - (a) if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Chapter, the notice may be served at any time within three months of the final determination of the proceedings, and
 - (b) if such proceedings are begun after a previous determination under this section the notice may be served within four weeks of the final determination of the proceedings and, whether or not such a notice is served, the landlord may at any time within those four weeks require the district valuer to re-determine the value of the dwelling-house at the relevant time.
- (3) Where the landlord requires a re-determination to be made in pursuance of subsection (2)(b) above it shall serve on the tenant a notice stating that the requirement is being or has been made.
- (4) Before making a determination or re-determination in pursuance of this section the district valuer shall consider any representation made to him by the landlord or the tenant within 4 weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3) above.
- (5) As soon as practicable after a determination or re-determination has been made in pursuance of this section the landlord shall serve on the tenant a notice stating the effect of the determination or re-determination and the matters mentioned in subsections (1) and (2) of section 10.
- (6) A notice under subsection (5) above shall inform the tenant of the right to a mortgage and of the effect of section 12 below and shall be accompanied by a form to be used by the tenant in exercising the right to a mortgage.

12 Claim to a mortgage

- (1) A secure tenant cannot exercise his right to a mortgage unless he claims to exercise it by notice in writing served on the landlord or, if the landlord is a housing association, on the Housing Corporation, within the period of three months beginning with the service on the tenant of the relevant notice, or within that period as extended under subsection (2) below.
- (2) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the Housing Corporation, shall by notice in writing served on the tenant extend (or further extend) the period within which the tenant's notice claiming to exercise his right to a mortgage must be served ; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (3) The relevant notice is—
 - (a) if the tenant exercises his right under section 11, the notice served under subsection (5) of that section; and
 - (b) if he does not exercise that right, the notice served under section 10 above.
- (4) As soon as practicable after the service on it of a notice under subsection (1) above the landlord or Housing Corporation shall serve on the tenant a notice in writing stating—

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- (a) the amount which, in the opinion of the landlord or Housing Corporation, the tenant is entitled to leave outstanding or have advanced on the security of the dwelling-house; and
 - (b) how that amount has been arrived at; and
 - (c) the provisions which, in the opinion of the landlord or Housing Corporation, should be contained in the deed by which the mortgage is to be effected.
- (5) The notice shall also inform the tenant of the effect of section 16(8) below and shall be accompanied by a form for use by the tenant in claiming, in accordance with section 16(4)(c) below, to be entitled to defer completion.
- (6) The Housing Corporation shall send to the landlord a copy of any notice served by it on the tenant under subsection (4) above.

13 Change of secure tenant after notice claiming right to buy

- (1) Where, after a secure tenant (in this section referred to as "the former tenant") has given a notice claiming the right to buy, another person (in this section referred to as "the new tenant") becomes the secure tenant—
- (a) under the same secure tenancy ; or
 - (b) under a periodic tenancy arising by virtue of section 29 of this Act on the coming to an end of the secure tenancy;
- the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.
- (2) If a notice under section 10 of this Act has been served on the former tenant, the landlord shall serve on the new tenant a further form for his use in exercising the right to a mortgage and the new tenant may then serve a notice under section 12(1) within the period of three months beginning with the service on him of that form or within that period as extended under subsection (3) below.
- (3) Where there are reasonable grounds for doing so the landlord or, as the case may be, the Housing Corporation shall by notice in writing served on the new tenant extend (or further extend) the period within which his notice claiming to exercise the right to a mortgage may be served; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) The preceding provisions of this section do not confer any right on a person required in pursuance of section 4(2) to share the right to buy unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.
- (5) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the secure tenant.

14 Change of landlord after notice claiming right to buy or right to a mortgage

Where, after a secure tenant has given a notice claiming to exercise the right to buy or the right to a mortgage, the freehold of the dwelling-house passes from the landlord to another body, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

15 Children succeeding parents

- (1) Where the secure tenant of a dwelling-house (in this section referred to as " the former tenant ") dies or otherwise ceases to be a secure tenant of the dwelling-house, and thereupon a child of his who occupies the dwelling-house as his only or principal home (in this section referred to as " the new tenant ") becomes the secure tenant of the dwelling-house (whether under the same or under another secure tenancy), the landlord may, if it thinks fit, count the whole or part of any period qualifying under this section—
 - (a) for the purposes of section 1(3) above ; or
 - (b) towards the period to be taken into account under section 7(5) above for the purposes of discount;or both (and may count different periods under paragraphs (a) and (b) above).
- (2) A period qualifies under this section if it is a period during which the new tenant, since reaching the age of sixteen, occupied as his only or principal home a dwelling-house of which a parent of his was the secure tenant or one of joint tenants under a secure tenancy, and either—
 - (a) it was the period at the end of which he became the secure tenant; or
 - (b) it was a period ending not earlier than two years before another period qualifying under this section.
- (3) For the purposes of this section two persons shall be treated as parent and child if they would be so treated under paragraphs (a) and (b) of section 50(3) of this Act.
- (4) This section has effect, whether or not the former tenant and the new tenant are also the former tenant and the new tenant within the meaning of section 13 above.

16 Completion

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, the landlord shall be bound, subject to the following provisions of this section, to make to the tenant—
 - (a) if the dwelling-house is a house, a grant of the dwelling house for an estate in fee simple absolute; and
 - (b) if the dwelling-house is a flat, a grant of a lease of the dwelling-house for a term of not less than 125 years (subject to paragraph 11(2) of Schedule 2 to this Act);as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined.
- (2) If, after all those matters have been agreed or determined, the tenant does not take all steps necessary to complete the transaction, the landlord may serve on him a notice requiring him to complete the transaction within a period stated in the notice, but the period stated in the notice shall not be less than 28 days.
- (3) A notice under subsection (2) above shall not be served earlier than whichever of the following is applicable, that is to say—
 - (a) if the tenant has not claimed to exercise the right to a mortgage, three months after the end of the period within which a notice claiming it could have been served by him;

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- (b) if he has claimed the right to a mortgage, but is not entitled to defer completion, three months after the service of the notice under section 12(4); and
 - (c) if he is entitled to defer completion, two years after the service of his notice under section 5 claiming the exercise of the right to buy or, if later, three months after the service of the notice under section 12(4) above.
- (4) A tenant is entitled to defer completion if—
- (a) he has claimed the right to a mortgage; and
 - (b) the amount which he is entitled, or is treated as being entitled, to leave outstanding or have advanced on the security of the dwelling-house is less than the aggregate mentioned in section 9(1) above ; and
 - (c) he has, within the period of three months beginning with the service on him of the notice under section 12(4) above or within that period as extended under subsection (5) below, served a notice on the landlord claiming to be entitled to defer completion and has, within the same period, deposited the sum of £100 with the landlord.
- (5) Where there are reasonable grounds for doing so the landlord shall extend (or further extend) the period within which a notice under subsection (4)(c) above must be served and the sum of £100 deposited; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (6) If the tenant does not comply with the notice under subsection (2) above, the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of the period stated in the notice under that subsection and no further notice claiming to exercise the right to buy shall have effect if served by the tenant on the landlord within twelve months of the end of that period.
- (7) If, in pursuance of a notice under subsection (4)(c) above, the tenant deposits the sum of £100 with the landlord, then—
- (a) if he completes the transaction, that sum shall be treated as having been paid towards the purchase price; and
 - (b) if he has claimed the right to a mortgage, but is not notice claiming to exercise the right to buy or is, by virtue of subsection (6) above, deemed to have withdrawn it, the sum deposited shall be returned to him.
- (8) A tenant who is entitled to defer completion may, at any time before the service on him of a notice under subsection (2) above, serve a further notice under subsection (1) of section 12 and, if he does so, subsection (4) and (where applicable) subsection (6) of that section shall then apply accordingly.
- (9) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, then, while the whole or part of it remains outstanding—
- (a) the landlord shall not be bound to complete ; and
 - (b) if a notice under subsection (2) above has been served on the tenant, the tenant shall be deemed not to comply with the notice.
- (10) The duty imposed on the landlord by subsection (1) above shall be enforceable by injunction.
- (11) On the grant to a secure tenant of an estate in fee simple or of a lease in pursuance of this Chapter the secure tenancy of the dwelling-house shall come to an end and, if

there is then a subtenancy, section 139 of the Law of Property Act 1925 shall apply as on a merger or surrender.

17 Conveyance of freehold and grant of lease

A conveyance of the freehold executed in pursuance of this Chapter shall conform with Parts I and II of Schedule 2 to this Act and a grant of a lease so executed with Parts I and III of that Schedule; and Part IV of that Schedule applies in relation to certain charges.

18 Right to a mortgage-terms of mortgage deed

The deed by which a mortgage is effected in pursuance of this Chapter shall, unless otherwise agreed between the parties, conform with the following provisions—

- (a) it shall provide for repayment of the amount secured in equal instalments of principal and interest combined;
- (b) the period over which repayment is to be made shall be 25 years or, at the option of the mortgagor, a shorter period, but shall be capable of being extended by the mortgagee; and
- (c) it may contain such other terms as may be agreed between the mortgagor and the mortgagee or as may be determined by the county court to be reasonably required by the mortgagor or the mortgagee;

but the Secretary of State may by order prescribe additional terms to be contained in any such deed or vary the provisions of paragraphs (a) and (b) above, but only in relation to deeds executed after the order comes into force.

19 Dwelling-houses in National Parks and areas of outstanding natural beauty, etc.

- (1) Where a conveyance or grant executed in pursuance of this Chapter is of a dwelling-house situated in a National Park, or an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or an area designated by order of the Secretary of State as a rural area, and it is executed by a local authority (as denned in section 50 of this Act), a county council, the Development Board for Rural Wales or a housing association ("the landlord") the conveyance or grant may contain a covenant limiting the freedom of the tenant and his successors in title to dispose of the dwelling-house in the manner specified below.
- (2) The limitation is, subject to subsection (4), that, until such time (if any) as may be notified in writing by the landlord to the tenant or his successors in title there will be no disposal falling within subsection (8) below without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3) below.
- (3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent, either—
 - (a) had his place of work in a designated region which or part of which is comprised in the National Park or area; or
 - (b) had his only or principal home in such a region ;or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the whole of the period.

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- (4) If the Secretary of State or, where the landlord is a housing association, the Housing Corporation, consents, the limitation specified in subsection (2) above may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no disposal falling within subsection (8) below unless—
- (a) the tenant (or his successor in title) has offered to reconvey the dwelling-house or, as the case may be, surrender the lease, to the landlord for a consideration equal (subject to subsection (7) below) to the amount agreed between the parties or determined by the district valuer as being the amount which under subsection (6) below is to be taken as the value of the dwelling-house at the time the offer is made ; and
 - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Secretary of State or of the Housing Corporation under subsection (4) may be given subject to such conditions as he or, as the case may be, the Housing Corporation thinks fit.
- (6) The value of the dwelling-house at the time the offer is made shall be taken to be the price which, at that time, it would realise if sold on the open market by a willing vendor on assumptions corresponding to those in subsection (3) or, as the case may require, subsection (4) of section 6 of this Act (but without the disregards required by subsection (2) of that section).
- (7) If the landlord accepts the offer mentioned in subsection (4) above, and the offer was made within five years of the conveyance or grant to the tenant, the consideration shall be reduced by such amount as would fall to be paid on demand on a disposal made at the time the offer was made and falling within subsection (3) of section 8 of this Act; and no payment shall be required in pursuance of that section.
- (8) A disposal falls within this subsection if it is—
- (a) a further conveyance of the freehold or an assignment of the lease; or
 - (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent;
- whether the disposal is of the whole or part of the dwelling-house; but a disposal in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 or under section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 or a vesting in a person taking under a will or on an intestacy is not a disposal falling within this subsection.
- (9) Any disposal in breach of such a covenant as is mentioned in subsection (1) above shall be void.
- (10) Where such a covenant imposes the limitation specified in subsection (2) above, the limitation shall be a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of the Land Registration Act 1925.
- (11) The reference in subsection (8) above to a lease or sublease does not include a mortgage term,
- (12) In this section "designated region" means an area designated for the purposes of this section by order of the Secretary of State ; and for the purposes of this section the grant of an option enabling a person to call for a disposal falling within subsection (8)

above shall be treated as such a disposal made to him and a consent to such a grant as a consent to a disposal made in pursuance of the option.

20 Registration of title

- (1) Section 123 of the Land Registration Act 1925 (compulsory registration of title) shall apply in relation to the conveyance of a freehold or grant of a lease in pursuance of this Chapter whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force.
- (2) If the dwelling-house is not registered land, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.
- (3) A certificate under subsection (2) above—
 - (a) shall be in a form approved by the Chief Land Registrar ; and
 - (b) shall be signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.
- (4) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if, as a result, he has to meet a claim against him under the Land Registration Acts 1925 to 1971, the landlord shall be liable to indemnify him.

21 Costs

- (1) Any agreement between a tenant exercising the right to buy and the landlord shall be void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant's exercise of that right, other than costs chargeable to the tenant under subsection (2) below.
- (2) Where the tenant exercising the right to buy also exercises the right to a mortgage, the landlord or, as the case may be, the Housing Corporation, may charge to him the costs incurred by it in connection with the tenant's exercise of the right to a mortgage, but only to the extent that they do not exceed such amount as the Secretary of State may by order specify.

22 Notices

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Chapter and the particulars to be contained in any such notice.
- (2) Any notice under this Chapter may be served by sending it by post.
- (3) Where the landlord is a housing association, any notice to be served by the tenant on the landlord under this Chapter may be served by leaving it at or sending it to the principal office of the association or the office of the association with which the tenant usually deals.

23 Secretary of State's power to intervene

- (1) Where it appears to the Secretary of State that tenants generally, or a tenant or tenants of a particular landlord, or tenants of a description of landlords have or may have

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difficulty in exercising the right to buy effectively and expeditiously, he may, after giving the landlord or landlords notice in writing of his intention to do so and while the notice is in force, use his powers under the following provisions of this section; and any such notice shall be deemed to be given 72 hours after it has been sent.

- (2) Where a notice under subsection (1) above has been given to a landlord or landlords no step taken by the landlord or any of the landlords while the notice is in force or before it was given shall have any effect in relation to the exercise by a secure tenant of the right to buy or the right to a mortgage, except in so far as the notice otherwise provides.
- (3) While a notice under subsection (1) above is in force the Secretary of State may do all such things as appear to him necessary or expedient to enable secure tenants of the landlord or landlords to which the notice was given to exercise the right to buy and the right to a mortgage, and he shall not be bound to take the steps which the landlord would have been bound to take under this Chapter.
- (4) Where, in consequence of the exercise by a secure tenant of the right to a mortgage a landlord becomes a mortgagee of a dwelling-house whilst a notice under subsection (1) above is in force in relation to the landlord and to the dwelling-house, then, while the notice remains in force—
 - (a) the Secretary of State may, on behalf of the mortgagee, receive any sums due to it and exercise all powers and do all things which the mortgagee could have exercised or done; and
 - (b) the mortgagee shall not receive any such sum, exercise any such power or do any such thing except with the consent of the Secretary of State, which may be given subject to such conditions as the Secretary of State thinks fit.
- (5) Where it appears to the Secretary of State necessary or expedient for the exercise of his powers under this section, he may by notice in writing to a landlord require it within such period as may be specified in the notice or such longer period as he may allow, to produce any document or supply any information ; and any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give the information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.
- (6) A notice under subsection (1) above may be withdrawn by a further notice in writing, either completely or in relation to a particular landlord or a particular case or description of case; and the further notice may give such directions as the Secretary of State may think fit for the completion of any transaction begun before the further notice was given.
- (7) Directions contained in a notice under subsection (6) above shall be binding on the landlord and may require the taking of steps different from those which the landlord would have been required to take if the Secretary of State's powers under this section had not been used.
- (8) Where, in consequence of the exercise of his powers under this section, the Secretary of State receives any sums due to a landlord he may retain them while a notice under subsection (1) above is in force in relation to the landlord, and he shall not be bound to account to the landlord for any interest accruing on any such sums.
- (9) Where the Secretary of State exercises his powers under this section with respect to any secure tenants of a landlord he may calculate, in such manner and on such assumptions as he may determine, the costs incurred by him in doing so and certify a sum as representing those costs; and any sum so certified shall be a debt from the

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landlord to the Secretary of State payable on demand, together with interest at a rate determined by the Secretary of State from the date the sum was certified.

- (10) Any sum payable under subsection (9) above may, without prejudice to any other method of recovery, be recovered from the landlord by the withholding of any sum due from the Secretary of State, including any sum payable to the landlord and received by the Secretary of State in consequence of his exercise of his powers under this section.
- (11) The references in subsections (5) to (10) above to a landlord and to the powers of the Secretary of State with respect to the secure tenants of a landlord include respectively references to a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage and to the powers of the Secretary of State to act on behalf of such a mortgagee.

24 Vesting orders

- (1) For the purpose of conveying a freehold or granting a lease in the exercise of his powers under section 23 the Secretary of State may execute a document, to be known as a vesting order, containing such provisions as he may determine; and for the purposes of stamp duty the vesting order shall be treated as a document executed by the landlord.
- (2) A vesting order shall have the like effect, except so far as it otherwise provides, as a conveyance or grant duly executed in pursuance of this Chapter, and, in particular, shall bind the landlord and the tenant and their successors in title to the same extent as if the covenants contained in it and expressed to be made on their behalf respectively had been entered into by them.
- (3) If the dwelling-house in respect of which a vesting order is made is not registered land the vesting order shall contain a certificate stating that the freehold conveyed or grant made by it is subject only to such incumbrances, rights and interests as are stated elsewhere in the vesting order or summarised in the certificate.
- (4) The Chief Land Registrar shall, on a vesting order being presented to him, register the tenant as proprietor of the title concerned ; and if the title has not been previously registered he shall so register him with an absolute title, and for the purpose of the registration the Chief Land Registrar shall accept any such certificate as is mentioned in subsection (3) above as sufficient evidence of the facts stated in it.
- (5) Where the dwelling-house with respect to which the right to buy is exercised is registered land the Chief Land Registrar shall, if so requested by the Secretary of State, supply him (on payment of the appropriate fee) with an office copy of any document required by the Secretary of State for the purpose of executing a vesting order with respect to the dwelling-house and shall (notwithstanding section 112 of the Land Registration Act 1925) allow any person authorised by the Secretary of State to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house.
- (6) If any person suffers loss in consequence of a registration under this section in circumstances in which he would have been entitled to be indemnified under section 83 of the Land Registration Act 1925 by the Chief Land Registrar had the registration of the tenant as proprietor of the title been effected otherwise than under this section, he shall instead be entitled to be indemnified by the Secretary of State and section 23(9) shall apply accordingly.

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25 Statutory declarations

A landlord, the Housing Corporation or the Secretary of State may, if the landlord, Corporation or Secretary of State thinks fit, accept any statutory declaration made for the purposes of this Chapter as sufficient evidence of the matters declared in it.

26 Power to repeal or amend local Acts

- (1) The Secretary of State may by order repeal or amend any provision of a local Act passed before this Act where it appears to him that the provision is inconsistent with any provision of this Chapter.
- (2) Before making an order under this section the Secretary of State shall consult any local authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.

27 Interpretation of Chapter I

- (1) In this Chapter expressions used in Chapter II have, subject to subsections (2) and (3) below, the same meanings as in that Chapter.
- (2) In this Chapter—
 - " district valuer ", in relation to any dwelling-house, means an officer of the Commissioners of Inland Revenue who is for the time being appointed by the Commissioners to be, in relation to the valuation list for the area in which the dwelling-house is situated, the valuation officer or deputy valuation officer, or one of the valuation officers or deputy valuation officers;
 - " flat ", " house " and " relevant time " have the meanings given by section 3, and " dwelling-house " the extended meaning given by subsection (4) of that section ;
 - " landlord ", except in subsections (1) and (2) of section 2, does not include any body specified in those subsections ; and
 - " the right to buy " and " the right to a mortgage " have the meanings given by section 1 (2).
- (3) References in this Chapter to a secure tenancy or a secure tenant are, in relation to any time before the commencement of Chapter II, references to a tenancy which would have been a secure tenancy if Chapter II had then been in force or to a person who would then have been a secure tenant; and for the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
 - (a) an authority not within the definition of " local authority " in section 50(1) shall be deemed to have been a local authority within that definition if it was the predecessor of such an authority; and
 - (b) a housing association shall be deemed to have been registered under Part II of the 1974 Act if it was so registered at the commencement of Chapter II.

CHAPTER II

SECURITY OF TENURE AND RIGHTS OF SECURE TENANTS

Secure tenancies

28 Secure tenancies

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described below as the landlord condition and the tenant condition are satisfied, but subject to the exceptions in Schedule 3 to this Act and to subsection (5) below and sections 37 and 49 of this Act.
- (2) The landlord condition is that—
 - (a) the interest of the landlord belongs to one of the bodies mentioned in subsection (4) below; or
 - (b) the interest of the landlord belongs to a housing association falling within subsection (3) of section 15 of the 1977 Act; or
 - (c) the interest of the landlord belongs to a housing co-operative and the dwelling-house is comprised in a housing co-operative agreement; or
 - (d) the interest of the landlord belongs to a county council and the tenancy was granted by it in the exercise of the reserve powers conferred on county councils by section 194 of the Local Government Act 1972.
- (3) The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.
- (4) The bodies referred to in subsection (2) (a) above are—
 - (a) a local authority;
 - (b) the Commission for the New Towns;
 - (c) a development corporation;
 - (d) the Housing Corporation;
 - (e) a housing trust which is a charity within the meaning of the Charities Act 1960 ; and
 - (f) the Development Board for Rural Wales.
- (5) Where a secure tenancy is a tenancy for a term certain and the tenant dies, the tenancy remains a secure tenancy until either—
 - (a) the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate; or
 - (b) it is known that when the tenancy has been so vested or disposed of it will not be a secure tenancy.

29 Periodic tenancy following fixed term

- (1) Where a secure tenancy (in this section referred to as II " the first tenancy ") is a tenancy for a term certain and comes to an end by effluxion of time or by an order under section 32(2) below, a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same

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dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.

- (2) Where a periodic tenancy arises by virtue of this section—
- (a) the periods of that tenancy are the same as those for which rent was last payable under the first tenancy; and
 - (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;
- except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.

30 Succession on death of tenant

- (1) Where a secure tenancy is a periodic tenancy and, on the death of the tenant, there is a person qualified to succeed him, the tenancy vests by virtue of this section in that person or, if there is more than one such person, in the one who is to be preferred in accordance with subsection (3) below, unless the tenant was a successor.
- (2) A person is qualified to succeed the tenant under a secure tenancy if he occupied the dwelling-house as his only or principal home at the time of the tenant's death and either—
 - (a) he is the tenant's spouse ; or
 - (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death.
- (3) Where there is more than one person qualified to succeed the tenant—
 - (a) the tenant's spouse is to be preferred to another member of the tenant's family ; and
 - (b) of two or more other members of the tenant's family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.

31 Meaning of successor

- (1) Where a secure tenancy is a periodic tenancy the tenant is a successor if—
 - (a) the tenancy vested in him by virtue of section 30 above; or
 - (b) he was a joint tenant and has become the sole tenant; or
 - (c) the tenancy arose by virtue of section 29 above and the first tenancy there mentioned was granted to another person or jointly to him and another person ; or
 - (d) he became the tenant on the tenancy being assigned to him or on its being vested in him on the death of the previous tenant;

but a tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 is a successor only if the other party to the marriage was himself a successor.
- (2) Where within six months of the coming to an end of a secure tenancy which is a periodic tenancy (in this subsection referred to as the former tenancy) the tenant becomes a tenant under another secure tenancy which is a periodic tenancy ; and—
 - (a) the tenant was a successor in relation to the former tenancy; and

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- (b) under the other tenancy either the dwelling-house or the landlord is or both are the same as under the former tenancy;

the tenant is a successor also in relation to the other tenancy, unless the agreement creating the other tenancy otherwise provides.

32 Security of tenure

- (1) A secure tenancy which is either—
 - (a) a weekly or other periodic tenancy; or
 - (b) a tenancy for a term certain but subject to termination by the landlord;cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house or an order under subsection (2) below; and where the landlord obtains an order for the possession of the dwelling-house the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.
- (2) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision; but in any case where, but for this section, the court would have made such an order it shall instead make an order terminating the secure tenancy on a date specified in the order.
- (3) Section 146 of the Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture shall apply in relation to proceedings for an order under subsection (2) above as if they were proceedings to enforce a right of re-entry or forfeiture.

33 Proceedings for possession or termination

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy or for the termination of a secure tenancy, unless the landlord has served on the tenant a notice complying with the provisions of this section and, if the tenancy is a periodic tenancy—
 - (a) the proceedings are begun after the date specified in the notice; and
 - (b) the notice is still in force at the time the proceedings are begun.
- (2) A notice under this section must be in a form prescribed by regulations made by the Secretary of State and must specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy and give particulars of that ground.
- (3) If the secure tenancy is a periodic tenancy the notice
 - (a) must also specify a date after which proceedings for the possession of the dwelling-house may be begun; and
 - (b) ceases to be in force twelve months after the date specified in it;and the date specified in it must not be earlier than the date on which the tenancy could, apart from this Act, be brought to an end by notice to quit given by the landlord if the notice to quit were given on the same date as the notice under this section.
- (4) Where a notice under this section is served with respect to a secure tenancy for a term certain it has effect also with respect to any periodic tenancy arising by virtue

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of section 29 above on the termination of that tenancy, and paragraphs (a) and (b) of subsection (1) and subsection (3) above do not apply to the notice.

34 Grounds and orders for possession

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Part I of Schedule 4 to this Act and shall not make such an order on any of those grounds unless the ground is specified in the notice in pursuance of which proceedings for possession are begun; but the grounds so specified may be altered or added to with the leave of the court.
- (2) The court shall not make the order—
 - (a) on any of grounds 1 to 6, unless the condition in subsection (3)(a) below is satisfied ;
 - (b) on any of grounds 7 to 9, unless the condition in subsection (3)(b) below is satisfied ; and
 - (c) on any of grounds 10 to 13, unless both those conditions are satisfied.
- (3) The conditions are—
 - (a) that the court considers it reasonable to make the order; and
 - (b) that the court is satisfied that suitable accommodation will be available for the tenant when the order takes effect.
- (4) Part II of Schedule 4 has effect for determining whether suitable accommodation will be available for a tenant.

Terms of a secure tenancy

35 Subletting and lodgers

- (1) It is by virtue of this section a term of every secure tenancy that the tenant may allow any persons to reside as lodgers in the dwelling-house.
- (2) It is by virtue of this section a term of every secure tenancy that the tenant will not, without the written consent of the landlord, sublet or part with the possession of part of the dwelling-house.
- (3) The consent required by virtue of this section is not to be unreasonably withheld and, if unreasonably withheld, shall be treated as given.
- (4) Section 113(5) of the 1957 Act shall cease to have effect.

36 Provisions as to consents required by section 35

- (1) If any question arises whether the withholding of a consent was unreasonable it is for the landlord to show that it was not; and in determining that question the following matters, if shown by the landlord, are among those to be taken into account, namely—
 - (a) that the consent would lead to overcrowding of the dwelling-house (as determined for the purposes of the 1957 Act); and
 - (b) that the landlord proposes to carry out works on the dwelling-house or on the building of which it forms part and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.

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- (2) A consent may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (3) A consent cannot be given subject to a condition, and if purporting to be given subject to a condition shall be treated as given unconditionally.
- (4) Where the tenant has applied in writing for a consent then—
 - (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused ; and
 - (b) if the landlord neither gives nor refuses to give the consent within a reasonable time the consent shall be taken to have been withheld.
- (5) In this section a " consent" means a consent which is required by virtue of section 35 above.

37 Effect of assignment or subletting, etc.

- (1) If a secure tenancy is assigned it ceases to be a secure tenancy, unless—
 - (a) the assignment is made in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 ; or
 - (b) the assignment is to a person in whom the tenancy would or might have vested by virtue of section 30 above had the tenant died immediately before the assignment, or in whom it would or might have so vested had the tenancy been a periodic tenancy;and similarly where, on the death of the tenant, a secure tenancy is vested or otherwise disposed of in the course of the administration of his estate.
- (2) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder) the tenancy ceases to be a secure tenancy.
- (3) Where
 - (a) a tenancy ceases to be a secure tenancy by virtue of this section; or
 - (b) at a time when a tenancy is not a secure tenancy the tenancy is assigned or the tenant parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder);the tenancy cannot become a secure tenancy.

38 Reimbursement of cost of tenant's improvements

- (1) This section applies where a secure tenant has made an improvement and—
 - (a) the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent; and
 - (b) work on the improvement was begun not earlier than the commencement of this Chapter; and
 - (c) the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market or the rent which the landlord may be expected to be able to charge on letting the dwelling-house.
- (2) Where this section applies, the landlord shall (in addition to any other power to make such payments) have power to make, at or after the end of the tenancy, such payment

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to the tenant (or his personal representatives) in respect of the improvement as the landlord considers to be appropriate.

- (3) The amount which a landlord may pay under subsection (2) above in respect of an improvement must not exceed the cost, or likely cost, of the improvement after deducting the amount of any grant in respect of that improvement under Part VII of the 1974 Act.

39 Rent not to be increased on account of tenant's improvements

Where a person who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne or would, but for a grant under Part VII of the 1974 Act, have borne, the whole or part of its cost, then in determining—

- (a) at any time whilst he is a secure tenant of that dwelling house ; or
- (b) if he has died and on his death the tenancy vested in his spouse under section 30, at any time whilst his spouse is a secure tenant of that dwelling-house;

whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of any increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which neither has nor would have been so borne (and accordingly as not justifying any increase if the whole of the cost has or would have been so borne).

This section does not apply to any increase attributable to rates.

40 Variation of terms of secure tenancy

- (1) The terms of a secure tenancy may be varied in accordance with the provisions of this section but not otherwise.
- (2) This section does not apply to any term of a tenancy which is implied by any enactment (including this Act) or to such a term of a housing association tenancy as may be varied under section 93 of the 1977 Act (increase of rent without notice to quit).
- (3) The variation may be effected—
 - (a) by agreement between the landlord and the tenant; or
 - (b) to the extent only that it relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with any provision in the lease or agreement creating the tenancy or in any agreement varying it.
- (4) If the tenancy is a periodic tenancy the variation may also be effected by the landlord by a notice of variation served on the tenant.
- (5) A notice of variation must specify the variation effected by it and the date on which it takes effect; and the period between the date on which it is served and the date on which it takes effect must not be shorter than the rental period of the tenancy nor shorter than 4 weeks.
- (6) Before serving a notice of variation on the tenant the landlord shall—
 - (a) serve on him a preliminary notice informing him of the landlord's intention to serve a notice of variation, specifying the variation proposed to be effected and its effect and inviting him to comment on the proposed variation within such time, to be specified in the notice, as the landlord considers reasonable ; and

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- (b) consider any comment made by the tenant within the time specified in the preliminary notice ;
and when the notice of variation is served it must be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.
- (7) Subsection (6) above does not apply to a variation—
 - (a) of the rent or of payments in respect of services or facilities provided by the landlord ; or
 - (b) of payments in respect of rates.
- (8) Where a notice of variation is served on the tenant and the tenant, before the date specified in it, gives a valid notice to quit, the notice of variation does not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.
- (9) References in this section to variation include addition and deletion; and for the purposes of this section the conversion of a monthly tenancy into a weekly, or a weekly into a monthly, tenancy is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.
- (10) This section applies in relation to the terms of a periodic tenancy arising by virtue of section 29 of this Act as it would have applied to the terms of the first tenancy mentioned in that section had that tenancy been a periodic tenancy.

41 Provision of information about tenancies

- (1) Every body which lets dwelling-houses under secure tenancies shall, within two years of the commencement of this Chapter and thereafter from time to time, publish information about its secure tenancies in such form as it considers best suited to explain in simple terms and so far as it considers appropriate, the effect of—
 - (a) the express terms of its secure tenancies;
 - (b) the provisions of this Part, and Part III of this Act;
 - (c) the provisions of sections 32 and 33 of the Housing Act 1961.
- (2) Every such body shall ensure that, so far as is reasonably practicable, the information published under subsection (1) above is kept up to date.
- (3) The landlord under a secure tenancy shall supply the tenant—
 - (a) with a copy of the information for secure tenants published by it under subsection (1) above; and
 - (b) with a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement, if any, nor implied by law.
- (4) The statement required by subsection (3)(b) above shall be supplied—
 - (a) if the tenancy is granted after the commencement of this Chapter, on the grant of the tenancy or as soon as practicable afterwards; and
 - (b) if the tenancy was granted before the commencement of this Chapter, within two years of that commencement.

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Housing management

42 Meaning of " landlord authority " and " housing management "

- (1) In this Chapter " landlord authority " means—
 - (a) a local authority ;
 - (b) subject to section 49 of this Act, a housing association which falls within section 15(3) of the 1977 Act;
 - (c) a housing trust which is a charity within the meaning of the Charities Act 1960 ;
 - (d) a development corporation ; or
 - (e) the Development Board for Rural Wales ;but neither the Development Board for Rural Wales nor a development corporation is a landlord authority for the purposes of this Chapter if an exemption certificate has been issued to it by the Secretary of State under section 45 of this Act.
- (2) A matter is one of housing management for the purposes of this Chapter if, in the opinion of the landlord authority concerned, it—
 - (a) relates to the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or to the provision of services or amenities in connection with such dwelling-houses; and
 - (b) represents a new programme of maintenance, improvement or demolition or a change in the practice or policy of the authority ; and
 - (c) is likely substantially to affect its secure tenants as a whole or a group of them.
- (3) A matter is not one of housing management for the purposes of this Chapter in so far as it relates to the rent payable under any secure tenancy or to any charge for services or facilities provided by the landlord authority concerned.
- (4) In this section " group " means a group of secure tenants who—
 - (a) form a distinct social group; or
 - (b) occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house concerned or the housing estate or other larger area in which they are situated).
- (5) In the case of a landlord authority which is a local authority, the reference in subsection (2)(a) above to the provision of services or amenities is to be taken as referring only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.

43 Consultation with secure tenants

- (1) Every landlord authority shall, within 12 months of the commencement of this Chapter, make and thereafter maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management—
 - (a) to be informed of the authority's proposals in respect of that matter; and
 - (b) to make their views known to the authority within a specified period.
- (2) It shall be the duty of a landlord authority, before making any decision on a matter of housing management, to consider any representation made to it in accordance with arrangements made by the authority under this section.

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- (3) Every landlord authority shall publish details of the arrangements which it makes under this section and a copy of any document published under this subsection shall—
 - (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public; and
 - (b) be furnished, on payment of a reasonable fee, to any member of the public who asks for one.
- (4) A landlord authority which is a housing association falling within section 15(3)(a) of the 1977 Act (registered with Housing Corporation) shall, instead of complying with paragraph (a) of subsection (3) above, send a copy of any document published under that subsection—
 - (a) to the Housing Corporation; and
 - (b) to the council of any district or London borough in which there are dwelling-houses let by the association under secure tenancies.
- (5) Where a copy of any document is sent to the council of a district or London borough under subsection (4) above, the council shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.

44 Provision of information about housing allocation

- (1) Every landlord authority shall publish a summary of its rules—
 - (a) for determining priority as between applicants in the allocation of its housing accommodation; and
 - (b) governing cases where secure tenants wish to move (whether or not by way of an exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that landlord authority or by any other body.
- (2) Every landlord authority shall—
 - (a) maintain a set of those rules and of the rules which it has laid down governing the procedure to be followed in allocating its housing accommodation ; and
 - (b) subject to subsection (3) below, make them available at its principal office for inspection at all reasonable hours without charge by members of the public.
- (3) A landlord authority which is a housing association falling within section 15(3)(a) of the 1977 Act (registered with Housing Corporation) shall, instead of complying with subsection (2)(b) above, send a set of the rules mentioned in subsection (2)(a) above—
 - (a) to the Housing Corporation ; and
 - (b) to the council of any district or London borough in which there are dwelling-houses let or to be let by the association under secure tenancies.
- (4) Where a copy of any set of rules maintained under subsection (2) above is sent to the council of a district or London borough under subsection (3) above, the council shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (5) A copy of any summary published under subsection (1) above shall be furnished without charge, and a copy of any set of rules maintained under subsection (2) above shall be furnished on payment of a reasonable fee, to any member of the public who asks for one.
- (6) At the request of any person who has applied to it for housing accommodation, a landlord authority shall make available to him, at all reasonable times and without

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charge, details of the particulars which he has given to the authority about himself and his family and which the authority has recorded as being relevant to his application for accommodation.

45 Exemption certificates

- (1) On an application duly made by the Development Board for Rural Wales or by a development corporation, the Secretary of State may issue an exemption certificate to the applicant if—
 - (a) he is satisfied that it has transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before the making of the application been vested in it; or
 - (b) he has, before the commencement of this Chapter, given directions to it under section 3(1) of the New Towns (Amendment) Act 1976 for the transfer of dwellings vested in it and is satisfied that when the transfer of those dwellings is completed it will have transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before that date been vested in it.
- (2) An application under this section shall be in such form and shall be accompanied by such information as the Secretary of State may, either generally or in relation to a particular case, direct.

46 Contributions towards the cost of transfers and exchanges

- (1) The Secretary of State may with the consent of the Treasury make out of moneys provided by Parliament grants or loans towards the cost of arrangements for facilitating moves to and from homes by which—
 - (a) a secure tenant becomes, at his request, the secure tenant of a different landlord ; or
 - (b) each of two or more tenants of dwelling-houses, one at least of which is let under a secure tenancy, becomes the tenant of the other or of one of the others.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine, and may be made so as to be repayable or, as the case may be, repayable earlier, if there is a breach of such a condition.

Application to existing tenancies

47 Application to existing tenancies

This Chapter applies to tenancies granted before as well as tenancies granted after the commencement of this Chapter.

Application to licences

48 Application to licences

- (1) Where a person who is not the tenant of a dwelling-house has a licence (whether or not granted for a consideration) to occupy the dwelling-house and the circumstances are such that, if the licence were a tenancy, it would be a secure tenancy, then, subject

to subsection (2) below, this Part of this Act applies to the licence as it applies to a secure tenancy and, as so applying, has effect as if expressions appropriate to a licence were substituted for " landlord " , " tenant " , " tenancy " and " secure tenancy " .

- (2) Subsection (1) above does not apply to a licence which was granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not before the grant another licence to occupy that or another dwelling-house had been granted to him).

Housing associations

49 Exclusion of certain housing associations from Chapter II

- (1) In this section—

" registered association " means a housing association which falls within paragraph (a) of section 15(3) of the 1977 Act (associations registered with the Housing Corporation); and

" registered society " means a housing association which falls within paragraph (d) of section 15(3) (certain associations registered under the Industrial and Provident Societies Act 1965).

- (2) A tenancy is not a secure tenancy at any time when the interest of the landlord belongs to a housing association which is both a registered association and a registered society.
- (3) Sections 35 to 46 of this Act do not apply to a tenancy at any time when the interest of the landlord belongs to a housing association which is a registered society.
- (4) If a housing association which is a registered society has been a registered association but at any time after the commencement of this Chapter has ceased to be such an association it shall notify those of its tenants who thereby become secure tenants that they have become secure tenants.
- (5) Notice under subsection (4) above shall be given in writing to each tenant concerned, within the period of 21 days beginning with the date on which the association ceased to be a registered association.

Supplementary

50 Interpretation of Chapter II

- (1) In this Chapter—

" development corporation " means a development corporation established by an order made, or having effect as if made, under the New Towns Act 1965 ;

" housing co-operative " has the meaning given by paragraph 1 of Schedule 20 to this Act;

" housing co-operative agreement " means an agreement to which Schedule 20 applies;

" housing trust " has the same meaning as in section 15 of the 1977 Act;

" improvement " has the meaning given by section 81 ;

" landlord authority " has the meaning given by section 42(1);

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" local authority" means the council of a district, the Greater London Council, the council of a London borough, the Common Council of the City of London or the Council of the Isles of Scilly ;

" rental period " means a period in respect of which a payment of rent falls to be made;

"successor" has the meaning given by section 31; and

" term ", in relation to a secure tenancy, includes a condition of the tenancy.

(2) For the purposes of this Chapter—

(a) a dwelling-house may be a house or part of a house;

(b) land let together with a dwelling-house shall be treated as part of the dwelling-house unless the land is agricultural land exceeding two acres ;

and in this subsection " agricultural land " has the meaning set out in section 26(3)(a) of the General Rate Act 1967.

(3) A person is a member of another's family within the meaning of this Chapter if he is his spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece; treating—

(a) any relationship by marriage as a relationship by blood, any relationship of the half blood as a relationship of the whole blood and the stepchild of any person as his child; and

(b) an illegitimate person as the legitimate child of his mother and reputed father; or if they live together as husband and wife.

PART II

PRIVATE SECTOR TENANTS

Protected shorthold tenancies

51 Preliminary

Sections 53 to 55 below modify the operation of the 1977 Act in relation to protected shorthold tenancies as defined in section 52 below.

52 Protected shorthold tenancies

(1) A protected shorthold tenancy is a protected tenancy granted after the commencement of this section which is granted for a term certain of not less than one year nor more than five years and satisfies the following conditions, that is to say.—

(a) it cannot be brought to an end by the landlord before the expiry of the term, except in pursuance of a provision for re-entry or forfeiture for non-payment of rent or breach of any other obligation of the tenancy; and

(b) before the grant the landlord has given the tenant a valid notice stating that the tenancy is to be a protected shorthold tenancy; and

(c) either a rent for the dwelling-house is registered at the time the tenancy is granted or—

(i) a certificate of fair rent has, before the grant, been issued under section 69 of the 1977 Act in respect of the dwelling-house and

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- the rent payable under the tenancy, for any period before a rent is registered for the dwelling-house, does not exceed the rent specified in the certificate; and
- (ii) an application for the registration of a rent for the dwelling-house is made not later than 28 days after the beginning of the term and is not withdrawn.
- (2) A tenancy of a dwelling-house is not a protected shorthold tenancy if it is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house.
- (3) A notice is not valid for the purposes of subsection (1)(b) above unless it complies with the requirements of regulations made by the Secretary of State.
- (4) The Secretary of State may by order direct that subsection (1) above shall have effect, either generally or in relation to any registration area specified in the order, as if paragraph (c) were omitted.
- (5) If a protected tenancy is granted after the commencement of this section—
- (a) for such a term certain as is mentioned in subsection (1) above, to be followed, at the option of the tenant, by a further term; or
- (b) for such a term certain and thereafter from year to year or some other period ;
- and satisfies the conditions stated in that subsection, the tenancy is a protected shorthold tenancy until the end of the term certain.

53 Right of tenant to terminate protected shorthold tenancy

- (1) A protected shorthold tenancy may be brought to an end (by virtue of this section and notwithstanding anything in the terms of the tenancy) before the expiry of the term certain by notice in writing of the appropriate length given by the tenant to the landlord; and the appropriate length of the notice is—
- (a) one month if the term certain is two years or less ; and
- (b) three months if it is more than two years.
- (2) Any agreement relating to a protected shorthold tenancy (whether or not contained in the instrument creating the tenancy) shall be void in so far as it purports to impose any penalty or disability on the tenant in the event of his giving a notice under this section.

54 Subletting or assignment

- (1) Where the whole or part of a dwelling-house let under a protected shorthold tenancy has been sublet at any time during the continuous period specified in subsection (3) below, and, during that period, the landlord becomes entitled, as against the tenant, to possession of the dwelling-house, he shall also be entitled to possession against the sub-tenant and section 137 of the 1977 Act shall not apply.
- (2) A protected shorthold tenancy of a dwelling-house and any protected tenancy of the same dwelling-house granted during the continuous period specified in subsection (3) below shall not be capable of being assigned, except in pursuance of an order under section 24 of the Matrimonial Causes Act 1973.
- (3) The continuous period mentioned in subsections (1) and (2) above is the period beginning with the grant of the protected shorthold tenancy and continuing until either—

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- (a) no person is in possession of the dwelling-house as a protected or statutory tenant; or
- (b) a protected tenancy of the dwelling-house is granted to a person who is not, immediately before the grant, in possession of the dwelling-house as a protected or statutory tenant.

55 Orders for possession

- (1) The following Case shall be added to the Cases in Part II of Schedule 15 to the 1977 Act (mandatory orders for possession):

“Case 19

Where the dwelling-house was let under a protected short-hold tenancy (or is treated under section 55 of the Housing Act 1980 as having been so let) and—

- (a) there either has been no grant of a further tenancy of the dwelling-house since the end of the protected shorthold tenancy or, if there was such a grant, it was to a person who immediately before the grant was in possession of the dwelling-house as a protected or statutory tenant; and
- (b) the proceedings for possession were commenced after appropriate notice by the landlord to the tenant and not later than 3 months after the expiry of the notice.

A notice is appropriate for this Case if—

- (i) it is in writing and states that proceedings for possession under this Case may be brought after its expiry; and
- (ii) it expires not earlier than 3 months after it is served nor, if, when it is served, the tenancy is a periodic tenancy, before that periodic tenancy could be brought to an end by a notice to quit served by the landlord on the same day ;
- (iii) it is served—
 - (a) in the period of 3 months immediately preceding the date on which the protected shorthold tenancy comes to an end; or
 - (b) if that date has passed, in the period of 3 months immediately preceding any anniversary of that date ; and
- (iv) in a case where a previous notice has been served by the landlord on the tenant in respect of the dwelling-house, and that notice was an appropriate notice, it is served not earlier than 3 months after the expiry of the previous notice.”

- (2) If, in proceedings for possession under Case 19 set out above, the court is of opinion that, notwithstanding that the condition of paragraph (b) or (c) of section 52(1) above is not satisfied, it is just and equitable to make an order for possession, it may treat the tenancy under which the dwelling-house was let as a protected shorthold tenancy.

Assured tenancies

56 Assured tenancies

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is an assured tenancy and not a housing association tenancy (within the meaning of section 86 of the 1977 Act) or a protected tenancy if—

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- (a) it would, when created, have been a protected tenancy or, as the case may be, housing association tenancy but for this section ; and
 - (b) the conditions described in subsection (3) below are satisfied.
- (2) In this Part of this Act " assured tenant" means the tenant under an assured tenancy.
- (3) The conditions are that—
- (a) the interest of the landlord has, since the creation of the tenancy, belonged to an approved body ;
 - (b) the dwelling-house is, or forms part of, a building which was erected (and on which construction work first began) after the passing of this Act; and
 - (c) before the tenant first occupied the dwelling-house under the tenancy, no part of it had been occupied by any person as his residence except under an assured tenancy.
- (4) In this Part of this Act " approved body " means a body, or one of a description of bodies, for the time being specified for the purposes of this Part of this Act in an order made by the Secretary of State.
- (5) After section 16 of the 1977 Act there is inserted the following section—

“16A Assured tenancies.

A tenancy shall not be a protected tenancy at any time when it is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (6) The preceding provisions of this section do not apply to a tenancy if, before the grant of the tenancy, the landlord has given the tenant a valid notice stating that the tenancy is to be a protected tenancy or, as the case may be, a housing association tenancy and not an assured tenancy.
- (7) A notice is not valid for the purposes of subsection (6) above unless it complies with the requirements of regulations made by the Secretary of State.

57 Effect of interest of landlord ceasing to belong to approved body

- (1) if the landlord under an assured tenancy ceases to be an approved body by reason only of a variation in the bodies or descriptions of bodies for the time specified in an order under section 56(4) of this Act, then in relation to—
 - (a) that tenancy ; and
 - (b) any further tenancy granted by the landlord to the person who immediately before the grant was in possession of the dwelling-house as an assured tenant;the landlord shall be treated, for the purposes of the condition in section 56(3)(a) above, as if it had remained an approved body.
- (2) If, for any period—
 - (a) the interest of the landlord under an assured tenancy has ceased to belong to an approved body, for any reason other than that mentioned in subsection (1) above; and
 - (b) but for this subsection the tenancy would thereby have become a housing association tenancy (within the meaning of section 86 of the 1977 Act) or a protected tenancy;

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then so much of that period as does not exceed 3 months shall be disregarded in determining whether the condition in section 56(3)(a) above is satisfied in relation to that tenancy.

58 Application of Landlord and Tenant Act 1954

- (1) Part II of the Landlord and Tenant Act 1954 (renewal and continuation of tenancies) applies to assured tenancies as it applies to certain business and other tenancies by virtue of section 23 of that Act, but subject to the exceptions and modifications mentioned in Schedule 5 to this Act.
- (2) Part IV of that Act (miscellaneous and supplementary provisions) applies to assured tenancies subject to the exceptions and modifications mentioned in Schedule 5.

Rents

59 Rent officers and applications for registration of rent

- (1) In section 63(2) of the 1977 Act (provision to be made by rent officer schemes) there is inserted, at the end of paragraph (d) “; and
 - (e) may require the proper officer—
 - (i) to designate one of the rent officers as chief rent officer; and
 - (ii) to delegate to him such of the duties imposed on the proper officer by virtue of paragraph (d) above as may be specified in the scheme.”
- (2) In section 67 of the 1977 Act (application for registration of rent) for subsection (2) there is substituted the following subsection—

“(2) Any such application must be in the prescribed form and must—

 - (a) specify the rent which it is sought to register;
 - (b) where the rent includes any sum payable by the tenant to the landlord for services and the application is made by the landlord, specify that sum and be accompanied by details of the expenditure incurred by the landlord in providing those services ; and
 - (c) contain such other particulars as may be prescribed.”
- (3) Schedule 6 to this Act has effect, in relation to applications made after the commencement of this subsection, for the purpose of amending the procedure provided for by the 1977 Act in relation to applications for the registration of rent.

60 Applications for new registered rents and phasing of increases

- (1) In section 67 of the 1977 Act (which, among other things, prevents an application for a new registered rent from being made within 3 years of the date of an existing registration and which is applied by section 13(2) of the Rent (Agriculture) Act 1976 to rents registered under that Act) in subsections (3) and (4) for the words " 3 years" there are substituted, in each case, the words " 2 years ".
- (2) Subsection (1) above does not apply in any case where, on the determination or confirmation of a rent by the rent officer, the rent determined by him is registered, or his confirmation is noted in the register, before the commencement of this section.

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(3) In Schedule 6 to the 1976 Act and in Schedule 8 to the 1977 Act (phasing of increases in registered rents) there is substituted, in each case for paragraph 3, the following paragraph—

“3 (1) Subject to sub-paragraph (2) below, the permitted increase for a period falling within the period of delay is an increase to an amount calculated by applying the formula—

$$\frac{1}{2}(P + S + R)$$

where—

P is the previous rent limit,
S is the service element, and
R is the registered rent.

(2) The maximum permitted increase by virtue of this Schedule is an increase to the registered rent”.

(4) Sections 56 and 114 of, and Schedule 9 to, the 1977 Act (special phasing rules in cases where controlled tenancies have been converted into regulated tenancies and where certain improvements have been made to dwelling-houses) are hereby repealed; and the general rules relating to the phasing of rent increases contained in section 55 of, and Schedule 8 to, that Act shall apply in those cases.

(5) The Secretary of State may by order make provision—

- (a) reducing or increasing the period for the time being mentioned in section 67(3) and (4) of the 1977 Act; or
- (b) reducing or increasing the period of delay for the time being imposed by the Schedules mentioned in subsection (3) above; or
- (c) repealing section 55 of the 1977 Act and section 15 of the 1976 Act (phasing of rent increases).

(6) An order under subsection (5)(a) above may make a corresponding reduction or increase in any of the periods for the time being mentioned in section 13 of the 1976 Act (application for registration of rent) and sections 73(1)(a) and (1A)(a) (cancellation of registration of rent under Part IV), 80(2) (reconsideration of rent under restricted contract) and 81A (cancellation of registration of rent under Part V) of the 1977 Act.

(7) An order under subsection (5) above may make such supplemental, incidental and consequential provision as the Secretary of State considers necessary or expedient, including provision amending any enactment (including this Act).

61 Effect of registration of rent etc.

(1) For section 72 of the 1977 Act (effect of registration of rent) there is substituted the following section—

“72 Effect of registration of rent.

(1) The registration of a rent for a dwelling-house takes effect—

- (a) if the rent is determined by the rent officer, from the date when it is registered, and

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- (b) if the rent is determined by a rent assessment committee, from the date when the committee make their decision.
- (2) If the rent for the time being registered is confirmed, the confirmation takes effect—
 - (a) if it is made by the rent officer, from the date when it is noted in the register, and
 - (b) if it is made by a rent assessment committee, from the date when the committee make their decision.
- (3) If (by virtue of section 67(4) of this Act) an application for registration of a rent is made before the expiry of the period mentioned in section 67(3) and the resulting registration of a rent for the dwelling-house, or confirmation of the rent for the time being registered, would, but for this subsection, take effect before the expiry of that period it shall take effect on the expiry of that period.
- (4) The date from which the registration or confirmation of a rent takes effect shall be entered in the register.
- (5) As from the date on which the registration of a rent takes effect any previous registration of a rent for the dwelling-house ceases to have effect.
- (6) Where a valid notice of increase under any provision of Part III of this Act has been served on a tenant and, in consequence of the registration of a rent, part but not the whole of the increase specified in the notice becomes irrecoverable from the tenant, the registration shall not invalidate the notice, but the notice shall, as from the date from which the registration takes effect, have effect as if it specified such part only of the increase as has not become irrecoverable.”.
- (2) For subsections (4) to (6) of section 13 of the Rent (Agriculture) Act 1976 (effect of registration of rent) there are substituted the following subsections—
 - “(4) The registration of a rent in the said part of the register takes effect—
 - (a) if the rent is determined by the rent officer, from the date when it is registered, and
 - (b) if the rent is determined by a rent assessment committee, from the date when the committee make their decision.
 - (5) If the rent for the time being registered in the said part of the register is confirmed, the confirmation takes effect—
 - (a) if it is made by the rent officer, from the date when it is noted in the register, and
 - (b) if it is made by a rent assessment committee, from the date when the committee make their decision.
 - (6) If (by virtue of section 67(4) of the Rent Act 1977, as applied by subsection (2) above) an application for registration of a rent is made before the expiry of the period mentioned in section 67(3) and the resulting registration of a rent for the dwelling-house, or confirmation of the rent for the time being registered, would, but for this subsection, take effect before the expiry of that period it shall take effect on the expiry of that period.
 - (6A) The date from which the registration or confirmation of a rent takes effect shall be entered in the said part of the register.

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- (6B) As from the date on which the registration of a rent takes effect any previous registration of a rent for the dwelling-house ceases to have effect.”
- (3) In Part VI of the 1977 Act (rent limit for dwellings let by housing associations, housing trusts and the Housing Corporation)
- (a) in section 87 (registration of rent), in subsection (2)(a) for the words " and 70 " there are substituted the words " 70 and 72 " and subsections (3) to (5) are hereby repealed; and
 - (b) subsections (1) and (2) of section 96 (effect of determination by rent assessment committee) are hereby repealed."
- (4) In section 45 of the 1977 Act (limit of rent during statutory periods) in subsection (3) for the words " on which the rent was registered " there are substituted the words " from which the registration of the rent took effect ".
- (5) In section 67 of the 1977 Act, for subsection (5) (meaning of " relevant date " in relation to applications for registration of rent) there is substituted the following subsection—
- “(5) In this section and sections 68 and 69 of this Act " relevant date ", in relation to a rent which has been registered under this Part of this Act, means the date from which the registration took effect or, in the case of a registered rent which has been confirmed, the date from which the confirmation (or, where there have been two or more successive confirmations, the last of them) took effect.”.
- (6) In Schedule 6 to the Rent (Agriculture) Act 1976 and in Schedule 8 to the 1977 Act (phasing of rent increases)—
- (a) in paragraph 1(1)—
 - (i) in the definition of "period of delay " for the words from " means " to the end there are substituted the words “means—
 - (a) if the registered rent has been confirmed by a rent assessment committee, a period beginning with the date from which the registration of the rent took effect and ending one year after the date on which the committee took their decision ; and
 - (b) in any other case, a period of one year beginning with the date from which the registration took effect.”.
 - (ii) in the definition of " previous rent limit" for the words " at the date of registration " there are substituted the words " immediately before the relevant date "; and
 - (iii) before the definition of " service element" there is inserted the following definition—

“" relevant date " means, in relation to a registered rent—

 - (a) if the rent was determined by the rent officer (and whether or not it was confirmed by a rent assessment committee), the date on which the rent was registered by the rent officer; and
 - (b) if the rent was determined by a rent assessment committee, the date on which the rent officer registered the rent determined by him or, as the case may be, noted in the register his confirmation of the rent for the time being registered.”;

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- (b) for paragraph 4 there is substituted the following paragraph—
- “4 Where the registration of a rent takes effect in a period of delay which began by reference to an earlier registration, then—
- (a) from the date on which the later registration takes effect the limitation under that period of delay shall cease to apply ; and
- (b) a fresh period of delay shall begin by reference to the later registration.”; and
- (c) paragraphs 7 (in Schedule 6) and 8 (in Schedule 8) are hereby repealed.
- (7) In Schedule 11 to the 1977 Act (procedure on application for registration of rent), in paragraph 9(2) for the word " accordingly " there are substituted the words " of their decision and of the date on which it was made ".
- (8) Subsections (1) to (5) above do not apply in any case where, on the determination or confirmation of a rent by the rent officer, the rent determined by him is registered, or his confirmation is noted in the register, before the commencement of this section.

62 Cancellation of registration of rent

- (1) Section 73 of the 1977 Act is amended as follows.
- (2) After subsection (1) there is inserted the following subsection : —
- “(1A) Such an application may also be made where—
- (a) not less than two years have elapsed since the relevant date (as defined in section 67(5) of this Act); and
- (b) the dwelling-house is not for the time being subject to a regulated tenancy ; and
- (c) the application is made by the person who would be the landlord if the dwelling-house were let on such a tenancy.”
- (3) For subsection (3) there is substituted the following subsection—
- “(3) An application under this section must—
- (a) be in the form prescribed for the application concerned and contain the prescribed particulars; and
- (b) be accompanied, in the case of an application under subsection (1) above, by a copy of the rent agreement.”.
- (4) In subsection (4)—
- (a) after the word " If " there are inserted the words " the application is made under subsection (1) above and "; and
- (b) at the end there are inserted the words " and he shall also cancel the registration if the application is made under subsection (1A) above ".
- (5) In subsection (5) after the word " Where " there are inserted the words " the application is made under subsection (1) above and ".
- (6) In subsection (6) for the words " The cancellation " there are substituted the words " A cancellation made in pursuance of an application under subsection (1) above ".

63 Repeal of sections 48 and 50 of Rent Act 1977

Section 48 of the 1977 Act (increase, on account of improvements, of recoverable rent for statutory periods before registration) and section 50 of that Act (private street works to count as improvements) are hereby repealed.

Conversion of controlled tenancies

64 Conversion of controlled tenancies into regulated tenancies

- (1) At the commencement of this section every controlled tenancy shall cease to be a controlled tenancy and become a regulated tenancy, except in the case mentioned in subsection (2) below.
- (2) If the controlled tenancy is one to which Part II of the Landlord and Tenant Act 1954 would apply, apart from section 24(2) of the 1977 Act, or would so apply if it were a tenancy within the meaning of the Act of 1954, it shall, when it ceases to be a controlled tenancy, be treated as a tenancy continuing by virtue of section 24 of the Act of 1954 after the expiry of a term of years certain.

Regulated tenancies

65 Resident landlords

- (1) In section 12(1) of the 1977 Act (certain tenancies granted by resident landlords not to be protected tenancies) for paragraphs (a) to (c) there are substituted the following paragraphs—
 - “(a) the dwelling-house forms part only of a building and, except in a case where the dwelling-house also forms part of a flat, the building is not a purpose-built block of flats; and
 - (b) the tenancy was granted by a person who, at the time when he granted it, occupied as his residence another dwelling-house which—
 - (i) in the case mentioned in paragraph (a) above, also forms part of the flat; or
 - (ii) in any other case, also forms part of the building ; and
 - (c) subject to paragraph 1 of Schedule 2 to this Act, at all times since the tenancy was granted the interest of the landlord under the tenancy has belonged to a person who, at the time he owned that interest, occupied as his residence another dwelling-house which—
 - (i) in the case mentioned in paragraph (a) above, also formed part of the flat; or
 - (ii) in any other case, also formed part of the building.”
- (2) Schedule 2 to the 1977 Act (provisions for determining application of section 12) is amended as follows.
- (3) In paragraph 1—
 - (a) in sub-paragraph (a) for the words " 14 days " there are substituted the words " 28 days " and after the word " building " there are inserted the words " or, as the case may be, flat ";

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- (b) in sub-paragraph (b) for the words " such dwelling-house as is referred to in that paragraph " there are substituted the words " dwelling-house in the building or, as the case may be, flat concerned "; and
 - (c) in sub-paragraph (c) for the words " 12 months " there are substituted the words " 2 years " and paragraph (i) is hereby repealed.
- (4) In paragraph 2(b) after the word " building " there are inserted the words " or, as the case may be, flat ".
- (5) After paragraph 2 there is inserted the following paragraph—
- “2A (1) The tenancy referred to in section 12(1) falls within this paragraph if the interest of the landlord under the tenancy becomes vested in the personal representatives of a deceased person acting in that capacity.
- (2) If the tenancy falls within this paragraph, the condition in section 12(1) (c) shall be deemed to be fulfilled for any period, beginning with the date on which the interest becomes vested in the personal representatives and not exceeding two years, during which the interest of the landlord remains so vested.”
- (6) Subject to subsection (7) below, this section, except subsection (1), applies to tenancies granted before as well as those granted after the commencement of this section.
- (7) In any case where the interest of the landlord under a tenancy vested in the personal representatives (acting in that capacity) of a person who died before the commencement of this section, Schedule 2 to the 1977 Act applies as if paragraph 2A had not been inserted and paragraph 1(c)(i) had not been repealed.

66 Amendment of Cases 11 and 12 of Schedule 15 to Rent Act 1977

- (1) In Case 11 in Schedule 15 to the 1977 Act (dwelling-house required by a person who was owner-occupier at time of letting) for paragraph (c) there is substituted the following paragraph—
- “(c) the court is of the opinion that of the conditions set out in Part V of this Schedule one of those in paragraphs (a) and (c) to (f) is satisfied.”
- (2) In Case 12 in Schedule 15 (dwelling-house required for use by owner on his retirement) for paragraph (c) there is substituted the following paragraph—
- “(c) the court is of the opinion that of the conditions set out in Part V of this Schedule one of those in paragraphs (b) to (e) is satisfied.”
- (3) There are inserted in Schedule 15, as a new Part V, the provisions set out in Schedule 7 to this Act; and in section 98 of the 1977 Act (which, among other things, introduces Schedule 15) there is added, at the end, the following subsection—
- “(5) Part V of Schedule 15 shall have effect for the purpose of setting out conditions which are relevant to Cases 11 and 12 of that Schedule.”
- (4) In Case 12 for the words from the beginning to " employment let" there are substituted the words " Where the landlord (in this Case referred to as " the owner ") intends to occupy the dwelling-house as his residence at such time as he might retire from regular employment and has let"
- (5) Subject to subsection (6) below, Cases 11 and 12, as amended by this section, apply to tenancies granted before, as well as those granted after, the commencement of

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this section; and nothing in this section invalidates a notice that possession might be recovered under Case 11 or Case 12 which was duly given to a tenant before then.

- (6) Paragraphs (c) and (d) of Part V of Schedule 15 do not apply to Case 11 if the tenancy was granted, and the owner died, before the commencement of this section; and paragraph (d) does not apply to Case 12 in any such case.

67 Lettings by servicemen

The following Case shall be added to the Cases in Part II of Schedule 15 to the 1977 Act (mandatory orders for possession) after the Case inserted in Part II by section 55 of this Act—

“Case 20

Where the dwelling-house was let by a person (in this Case referred to as "the owner") at any time after the commencement of section 67 of the Housing Act 1980 and—

- (a) at the time when the owner acquired the dwelling house he was a member of the regular armed forces of the Crown;
- (b) at the relevant date the owner was a member of the regular armed forces of the Crown ;
- (c) not later than the relevant date the owner gave notice in writing to the tenant that possession might be recovered under this Case ;
- (d) the dwelling-house has not, since the commencement of section 67 of the Act of 1980 been let by the owner on a protected tenancy with respect to which the condition mentioned in paragraph (c) above was not satisfied ; and
- (e) the court is of the opinion that—
 - (i) the dwelling-house is required as a residence for the owner ; or
 - (ii) of the conditions set out in Part V of this Schedule one of those in paragraphs (c) to (f) is satisfied.

If the court is of the opinion that, notwithstanding that the condition in paragraph (c) or (d) above is not complied with, it is just and equitable to make an order for possession of the dwelling-house, the court may dispense with the requirements of either or both of these paragraphs, as the case may require.

For the purposes of this Case " regular armed forces of the Crown " has the same meaning as in section 1 of the House of Commons Disqualification Act 1975.”

Rent agreements

68 Rent agreements with tenants having security of tenure

- (1) In section 51(4) of the 1977 Act (requirements to be observed in rent agreements with tenants having security of tenure), in paragraph (b) the following sub-paragraph is inserted after sub-paragraph (i)—
- “(ia) that if the agreement were not made but instead a rent were registered under Part IV of this Act, then part only of any increase over the rent previously recoverable by the landlord would be payable by the tenant during the first year ; and”.

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- (2) For section 52 of the 1977 Act (which makes special provision, in the case of converted tenancies, in relation to rent agreements with tenants having security of tenure) there is substituted the following section—

“52 Protection: special provisions following conversion.

- (1) This section applies to an agreement with a tenant having security of tenure which is entered into after the commencement of section 68(2) of the Housing Act 1980 if the tenancy has become or, as the case may be, the previous tenancy became a regulated tenancy by conversion.
 - (2) Any such agreement which purports to increase the rent payable under a protected tenancy shall, if entered into at a time when no rent is registered for the dwelling-house under Part IV of this Act, be void.
 - (3) If any such agreement constitutes a grant of a regulated tenancy and is made at a time when no rent is so registered, any excess of the rent payable under the tenancy so granted (for any contractual or statutory period of the tenancy) over the rent limit applicable to the previous tenancy, shall be irrecoverable from the tenant; but this subsection ceases to apply if a rent is subsequently so registered.
 - (4) For the purposes of this section a tenancy is a regulated tenancy by conversion if it has become a regulated tenancy by virtue of—
 - (a) Part VIII of this Act, section 43 of the Housing Act 1969 or Part III or IV of the Housing Finance Act 1972 (conversion of controlled tenancies into regulated tenancies) ; or
 - (b) section 18(3) of this Act or paragraph 5 of Schedule 2 to the Rent Act 1968 (conversion on death of first successor); or
 - (c) section 64 of the Housing Act 1980 (conversion of all remaining controlled tenancies).
 - (5) This section does not apply to any agreement where the tenant is neither the person who, at the time of the conversion, was the tenant nor a person who might succeed the tenant at that time as a statutory tenant.
 - (6) Where a rent is registered for the dwelling-house and the registration is subsequently cancelled, this section shall not apply to the agreement submitted to the rent officer in connection with the cancellation nor to any agreement made so as to take effect after the cancellation.”
- (3) In section 57 of the 1977 Act (recovery from landlord of sums paid in excess of recoverable rent, etc.) for subsection (3) there is substituted the following subsection—
- “(3) No amount which a tenant is entitled to recover under subsection (1) above shall be recoverable at any time after the expiry of—
- (a) one year, in the case of an amount which is irrecoverable by virtue of section 54 of this Act; or
 - (b) two years, in any other case.”.

Restricted contracts

69 Restricted contracts: security of tenure

(1) In section 3 of the Protection from Eviction Act 1977 (prohibition of eviction without due process of law), after subsection (2) there is inserted the following subsection—

“(2A) Subsections (1) and (2) above apply in relation to any restricted contract (within the meaning of the Rent Act 1977) which—

- (a) creates a licence ; and
- (b) is entered into after the commencement of section 69 of the Housing Act 1980;

as they apply in relation to a restricted contract which creates a tenancy.”.

(2) After section 106 of the 1977 Act there is inserted the following section: —

“106A Discretion of court in certain proceedings for possession.

(1) This section applies to any dwelling-house which is the subject of a restricted contract entered into after the commencement of section 69 of the Housing Act 1980.

(2) On the making of an order for possession of such a dwelling-house, or at any time before the execution of such an order, the court may—

- (a) stay or suspend execution of the order, or
- (b) postpone the date of possession,

for such period or periods as, subject to subsection (3) below, the court thinks fit.

(3) Where a court makes an order for possession of such a dwelling-house, the giving up of possession shall not be postponed (whether by the order or any variation, suspension or stay of execution) to a date later than 3 months after the making of the order.

(4) On any such stay, suspension or postponement as is referred to in subsection (2) above, the court shall, unless it considers that to do so would cause exceptional hardship to the lessee or would otherwise be unreasonable, impose conditions with regard to payment by the lessee of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.

(5) Subsection (6) below applies in any case where—

- (a) proceedings are brought for possession of such a dwelling-house;
- (b) the lessee's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
- (c) the restricted contract is terminated as a result of those proceedings.

(6) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, 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 restricted contract.”.

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

- (3) Sections 103 to 106 of the 1977 Act (security of tenure in respect of restricted contracts) shall not apply to restricted contracts entered into after the commencement of this section; and accordingly after section 102 of that Act there is inserted the following section—

“102A Restricted application of sections 103 to 106.

Sections 103 to 106 of this Act apply only to restricted contracts entered into before the commencement of section 69 of the Housing Act 1980.”.

- (4) In section 12 of the 1977 Act, for subsections (2) and (3) (cases where tenancies granted by resident landlords are not exempted by section 12 from being protected tenancies), there is substituted the following subsection—

“(2) This section does not apply to a tenancy of a dwelling-house which forms part of a building if the tenancy is granted to a person who, immediately before it was granted, was a protected or statutory tenant of that dwelling-house or of any other dwelling-house in that building.”

70 Reconsideration of registered rents under Part V of Rent Act 1977

- (1) in section 80(2) of the 1977 Act (which in certain circumstances prevents an application for a new registered rent for a dwelling-house which is the subject of a restricted contract from being made within 3 years of the date of an existing registration), for the words " 3 years " there are substituted the words " 2 years ".
- (2) This section does not apply in any case where the date from which the period during which no application for registration can be made is to be calculated falls before the commencement of this section.

71 Cancellation of rents registered under Part V of Rent Act 1977

- (1) After section 81 of the 1977 Act (effect of registration of rent under section 79) there is inserted the following section—

“81A Cancellation of registration of rent.

- (1) Where the rent payable for any dwelling is entered in the register under section 79 of this Act, the rent tribunal shall cancel the entry, on an application made under this section, if—
- (a) not less than two years have elapsed since the date of entry ;
 - (b) the dwelling is not for the time being subject to a restricted contract; and
 - (c) the application is made by the person who would be the lessor if the dwelling were subject to a restricted contract.
- (2) An application under this section must be in the prescribed form, and contain the prescribed particulars.
- (3) Cancellation of the registration shall be without prejudice to a further registration of a rent at any time after the cancellation.

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

- (4) The rent tribunal shall notify the applicant of their decision to grant, or to refuse, any application under this section.”
- (2) In Schedule 10 to the 1977 Act (rent assessment committees), in paragraph 5 for the words " paragraph 6 " there are substituted the words " paragraphs 6 and 6A " and after paragraph 6 there is inserted the following paragraph—
- “6A When dealing with an application under section 81A of this Act a rent assessment committee carrying out the functions of a rent tribunal shall consist of the chairman of the committee sitting alone.”.

72 Functions of rent tribunals

- (1) Rent tribunals, as constituted for the purposes of the 1977 Act, are hereby abolished and section 76 of the 1977 Act (constitution etc. of rent tribunals) is hereby repealed.
- (2) As from the commencement of this section the functions which, under the 1977 Act, are conferred on rent tribunals shall be carried out by rent assessment committees.
- (3) A rent assessment committee shall, when constituted to carry out functions so conferred, be known as a rent tribunal.

Miscellaneous

73 Dwellings forming part of Crown Estate or belonging to Duchies

- (1) The following section is substituted for section 13 of the 1977 Act :
- (1) Except as provided by subsection (2) below—
- (a) a tenancy shall not be a protected tenancy at any time when the interest of the landlord under the tenancy 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; and
- (b) a person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would at that time belong or be held as mentioned in paragraph (a) above.
- (2) An interest belonging to Her Majesty in right of the Crown shall not prevent a tenancy from being a protected tenancy or a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.
- (2) In subsection (5) of section 19 of the 1977 Act the words (in paragraph (b)) "or of the Duchy of Lancaster or to the Duchy of Cornwall " are omitted and at the end of the subsection there are inserted the words " except that an interest belonging to Her Majesty in right of the Crown does not prevent a contract from being a restricted contract if the interest is under the management of the Crown Estate Commissioners ".
- (3) In section 5 of the Rent (Agriculture) Act 1976 the following is substituted for subsection (1) :
- “(1) person shall not at any time be a statutory tenant of a dwelling-house if the interest of his immediate landlord would, at that time—

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

- (a) belong to Her Majesty in right of the Crown or to a government department, or
- (b) be held in trust for Her Majesty for the purposes of a government department;

except that an interest belonging to Her Majesty in right of the Crown shall not prevent a person from being a statutory tenant if the interest is under the management of the Crown Estate Commissioners.”.

(4) In the Landlord and Tenant Act 1954—

- (a) the following is inserted at the end of section 56 :

“(7) Part I of this Act shall apply where—

- (a) there is an interest belonging to Her Majesty in right of the Crown and that interest is under the management of the Crown Estate Commissioners; or
- (b) there is an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

as if it were an interest not so belonging.”;

- (b) in section 21(6) the following is substituted for the definition of " interest not bound by this Part of this Act " :

“In this subsection ' interest not bound by this Part of this Act' means an interest which belongs to Her Majesty in right of the Crown and is not under the management of the Crown Estate Commissioners or an interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department.”.

- (5) Schedule 8 to this Act has effect for making certain provisions consequential on this section.

74 Housing association and housing trust tenancies under Rent Act 1977

- (1) In section 15 of the 1977 Act (tenancies not protected when landlord's interest belongs to housing association or housing trust etc.) subsection (4), and in subsection (1) the words " in respect of which any of the conditions specified in subsection (4) below is fulfilled ", are hereby repealed.

- (2) For subsection (5) of section 15 there is substituted the following subsection—

“(5) In subsection (2) above ' housing trust' means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation; or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.”.

- (3) Schedule 9 to this Act has effect for the purpose of supplementing this section.

75 Proceedings for possession of certain dwelling-houses

(1) Section 100 of the 1977 Act (which gives the court an extended discretion in actions for possession of certain dwelling-houses) is amended as follows.

(2) For subsection (3) there is substituted the following subsection—

“(3) On 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, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

(3) After subsection (4) there are inserted the following subsections—

“(4A) Subsection (4B) below applies in any case where—

- (a) proceedings are brought for possession of a dwelling-house which is let on a protected tenancy or subject to a statutory tenancy;
- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house ; and
- (c) the tenancy is terminated as a result of those proceedings.

(4B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, 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.”.

(4) Section 7 of the Rent (Agriculture) Act 1976 (which corresponds to section 100 of the 1977 Act) is amended as follows.

(5) After subsection (2) there is inserted the following subsection—

“(2A) In those cases the court may adjourn for such period or periods as it thinks fit”.

(6) For subsection (4) there is substituted the following subsection—

“(4) On any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.”.

(7) After subsection (5) there are inserted the following subsections—

“(5A) Subsection (5B) below applies in any case where

- (a) proceedings are brought for possession of a dwelling-house which is subject to a protected occupancy or statutory tenancy;

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- (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
- (c) the tenancy is terminated as a result of those proceedings.

(5B) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to or in connection with any such adjournment as is referred to in subsection (2A) above or any such stay, suspension or postponement as is referred to in subsection (3) above as he or she would have if those rights of occupation were not affected by the termination of the tenancy.”

76 Statutory tenancies by succession

- (1) In Schedule 1 to the 1977 Act, for paragraph 2 (under which on the death of the original tenant under a protected or statutory tenancy his widow if residing with him at his death becomes a statutory tenant by succession) there is substituted the following paragraph—

“2 The surviving spouse (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

- (2) For paragraph 6 of that Schedule (similar provision in relation to death of first successor) there is substituted the following paragraph—

“6 The surviving spouse (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

- (3) In sections 3(2) and (3)(a) and 4(3) and (4)(a) of the Rent (Agriculture) Act 1976 (which correspond to provisions in Schedule 1 to the 1977 Act) for the words " with him at his death " there shall be substituted in each case, the words " in the dwelling-house immediately before his death ".
- (4) The amendments made by this section have effect only in relation to deaths occurring after the commencement of the subsection concerned.

77 Amendment of Part VI of Rent Act 1977

Part VI of the 1977 Act (rent limit for dwellings let by housing associations, housing trusts and the Housing Corporation) is amended in accordance with the provisions of Schedule 10 to this Act.

78 Allowable premiums in relation to certain long tenancies

- (1) Section 127 of the 1977 Act shall have effect and be deemed always to have had effect as if for paragraph (c) of subsection (2) there were substituted the paragraph set out in subsection (2) below and at the end of subsection (5) there were added the words set out in subsection (3) below.
- (2) The substituted paragraph is—

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

- “(c) 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”.
- (3) The added words are " and for the purposes of subsections (2)(c) and (3B)(d) above the terms of a tenancy inhibit an assignment or underletting if they—
- (a) preclude it; or
 - (b) permit it subject to a consent but exclude section 144 of the Law of Property Act 1925 (no payment in nature of fine); or
 - (c) permit it subject to a consent but require in connection with a request for consent the making of an offer to surrender the tenancy."
- (4) After subsection (3) of section 127 there are inserted the following subsections—
- “(3A) If the conditions in subsection (3B) below are satisfied in respect of a tenancy, this Part of this Act shall not apply to that tenancy and, together with Part VII of the Rent Act 1968 and the enactments replaced by Part VII, shall be deemed never to have applied to it.
- (3B) The conditions are that—
- (a) the tenancy was granted before 16th July 1980;
 - (b) a premium was lawfully required and paid on the grant of the tenancy ;
 - (c) the tenancy was, at the time when it was granted, a tenancy at a low rent; and
 - (d) the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy.
- (3C) If the conditions in subsection (3D) below are satisfied in respect of a tenancy, this section shall have effect, in relation to that tenancy, as if for the words " 20 years " and " 21 years ", in subsections (2)(b) and (3) above there were substituted, respectively, the words " 6 years " and " 7 years ".
- (3D) The conditions are that—
- (a) the tenancy is granted after 15th July 1980 ;
 - (b) at the time when it is granted it is a tenancy at a low rent; and
 - (c) the terms of the tenancy ensure that any variation of the sums payable by the tenant otherwise than in respect of rates, services, repairs or maintenance, cannot lead to those sums exceeding an annual rate of two-thirds of the rateable value of the dwelling-house at the date when the variation is made.

For the purposes of this subsection the rateable value of a dwelling-house shall be ascertained in accordance with section 25 of this Act (disregarding subsection (4)) by reference to the value shown in the valuation list at the date when the variation is made.”.

79 Meaning of " premium " in Part IX of Rent Act 1977

In section 128 of the 1977 Act (interpretation of Part IX, which prohibits premiums etc.) for the definition of " premium", in subsection (1), there is substituted the following definition—

- “‘ premium' includes—
- (a) any fine or other like sum;
 - (b) any other pecuniary consideration in addition to rent; and

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- (c) any sum paid by way of a deposit, other than one which does not exceed one-sixth of the annual rent and is reasonable in relation to the potential liability in respect of which it is paid.”

PART III

TENANT'S REPAIRS AND IMPROVEMENTS

80 Repairing obligations in short leases

- (1) Section 32 of the Housing Act 1961 (covenant by landlord to repair to be implied in short leases) does not apply to any lease granted after the commencement of this section—
- (a) to a specified educational institution or other specified body;
 - (b) to a housing association falling within section 15(3) of the 1977 Act;
 - (c) to a body of a kind mentioned in section 14 of the 1977 Act (local authorities etc);
 - (d) to Her Majesty in right of the Crown unless the lease is under the management of the Crown Estate Commissioners ; or
 - (e) to a government department, or to any person holding in trust for Her Majesty for the purposes of a government department.
- (2) In subsection (1) above " specified " means specified, or of a class specified, by regulations made by the Secretary of State under section 8 of the 1977 Act.
- (3) In section 33(1) of the Housing Act 1961 (leases to which section 32 applies) after the words " this section " there are inserted the words " and section 80 of the Housing Act 1980 ".

81 Tenant's improvements

- (1) The following provisions of this section have effect with respect to secure tenancies, protected tenancies and statutory tenancies in place of section 19(2) of the Landlord and Tenant Act 1927.
- (2) It is by virtue of this section a term of every such tenancy that the tenant will not make any improvement without the written consent of the landlord.
- (3) The consent required by virtue of subsection (2) above is not to be unreasonably withheld and, if unreasonably withheld, shall be treated as given.
- (4) Subsections (1) to (3) above do not apply in any case where the tenant has been given a notice—
- (a) of a kind mentioned in one of Cases 11 to 18 and 20 in Schedule 15 to the 1977 Act (notice that possession might be recovered under that Case); or
 - (b) under section 52(1)(b) of this Act (notice that a tenancy is to be a protected shorthold tenancy);

unless the tenant proves that, at the time when the landlord gave the notice, it was unreasonable for the landlord to expect to be able in due course to recover possession of the dwelling-house under that Case or, as the case may be, Case 19 of Schedule 15 (added by section 55 of this Act).

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(5) In Part I, and in this Part, of this Act "improvement" means any alteration in, or addition to, a dwelling-house and includes—

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

but paragraph (c) above does not apply in relation to a protected or statutory tenancy if the landlord is under an obligation to carry out external decoration or to keep the exterior of the dwelling-house in repair.

82 Provisions as to consents required by section 81

(1) If any question arises whether the withholding of a consent required by virtue of section 81 above was unreasonable it is for the landlord to show that it was not; and in determining that question the court shall, in particular have regard to the extent to which the improvement would be likely—

- (a) to make the dwelling-house, or any other premises, less safe for occupiers;
- (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made; or
- (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.

(2) A consent required by virtue of section 81 may be validly given notwithstanding that it follows, instead of preceding, the action requiring it and may be given subject to a condition.

(3) Where the tenant has applied in writing for a consent which is required by virtue of section 81 then—

- (a) if the landlord refuses to give the consent it shall give to the tenant a written statement of the reasons why the consent was refused; and
- (b) if the landlord neither gives nor refuses to give the consent within a reasonable time, the consent shall be taken to have been withheld, and if the landlord gives the consent but subject to an unreasonable condition, the consent shall be taken to have been unreasonably withheld.

(4) If any question arises whether a condition attached to a consent was reasonable, it is for the landlord to show that it was.

83 Conditional consent to tenant's improvements

Any failure by a secure tenant, a protected tenant or a statutory tenant to satisfy any reasonable condition imposed by his landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of Chapter II of Part I of this Act or, as the case may be, for the purposes of the 1977 Act as a breach by the tenant of an obligation of his tenancy or, as the case may be, of an obligation of the previous protected tenancy which is applicable to the statutory tenancy.

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

84 Exclusion of certain housing associations from Part III

This Part of this Act does not apply in relation to a housing association which falls within paragraph (d) of section 15(3) of the 1977 Act (certain societies registered under the Industrial and Provident Societies Act 1965).

85 Interpretation and application of Part III

- (1) In this Part of this Act any expression used in Chapter II of Part I of this Act or in the 1977 Act has the same meaning as in that Chapter or, as the case may be, that Act.
- (2) This Part of this Act applies to tenancies granted before as well as tenancies granted after the commencement of this Part of this Act.

PART IV

JURISDICTION AND PROCEDURE

86 Jurisdiction of county court and rules of procedure

- (1) Subject to section 11 of this Act, a county court has jurisdiction to determine any question arising under Part I or III of this Act and to entertain any proceedings brought thereunder and any claim (for whatever amount) in connection with a secure tenancy.
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any question arising under Chapter I of Part I and any question—
 - (a) whether any consent required by section 35 or section 81 was withheld or unreasonably withheld ; or
 - (b) whether a statement supplied in pursuance of section 41(3)(b) is accurate; notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this Part of this Act.
- (5) The rules and directions may provide—
 - (a) for the exercise by any registrar of a county court of any jurisdiction exercisable under this section; and
 - (b) for the conduct of any proceedings in private.
- (6) The power to make rules under this section is exercisable by statutory instrument and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

87 Extended discretion of court in certain proceedings for possession

- (1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of grounds 1 to 6 or 10 to 13 in Part I of Schedule 4 to this Act, the court may adjourn the proceedings for such period or periods as it thinks fit.

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- (2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court 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 fit.
- (3) On 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, the court shall, unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, impose conditions with regard to payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after termination of the tenancy (mesne profits) and may impose such other conditions as it thinks fit.
- (4) If such conditions as are referred to in subsection (3) above are complied with, the court may, if it thinks fit, discharge or rescind the order concerned.
- (5) Subsection (6) below applies in any case where
 - (a) proceedings are brought for possession of a dwelling-house which is let under a secure tenancy ;
 - (b) the tenant's spouse or former spouse, having rights of occupation under the Matrimonial Homes Act 1967, is then in occupation of the dwelling-house; and
 - (c) the tenancy is terminated as a result of those proceedings.
- (6) In any case to which this subsection applies, the spouse or former spouse shall, so long as he or she remains in occupation, 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.

88 Discretion of court in certain proceedings for possession

- (1) Where, under the terms of a rental purchase agreement, a person has been let into possession of a dwelling-house and, on the termination of the agreement or of his right to possession under it, proceedings are brought for the possession of the dwelling-house, the court may—
 - (a) adjourn the proceedings; or
 - (b) on making an order for the possession of the dwelling-house, stay or suspend execution of the order or postpone the date of possession;for such period or periods as the court thinks fit.
- (2) On any such adjournment, stay, suspension or postponement the court may impose such conditions with regard to payments by the person in possession in respect of his continued occupation of the dwelling-house and such other conditions as the court thinks fit.
- (3) The court may revoke or from time to time vary any condition imposed by virtue of this section.
- (4) In this section "rental purchase agreement" means an agreement for the purchase of a dwelling-house (whether freehold or leasehold property) under which the whole or

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part of the purchase price is to be paid in three or more instalments and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid.

- (5) This section extends to proceedings for the possession of a dwelling-house which were begun before the commencement of this section unless an order for the possession of the dwelling-house was made in the proceedings and executed before the commencement of this section.

89 Restriction on discretion of court in making orders for possession of land

- (1) Where a court makes an order for the possession of any land in a case not falling within the exceptions mentioned in subsection (2) below, the giving up of possession shall not be postponed (whether by the order or any variation, suspension or stay of execution) to a date later than fourteen days after the making of the order, unless it appears to the court that exceptional hardship would be caused by requiring possession to be given up by that date; and shall not in any event be postponed to a date later than six weeks after the making of the order.
- (2) The restrictions in subsection (1) above do not apply if—
- (a) the order is made in an action by a mortgagee for possession ; or
 - (b) the order is made in an action for forfeiture of a lease; or
 - (c) the court had power to make the order only if it considered it reasonable to make it; or
 - (d) the order relates to a dwelling-house which is the subject of a restricted contract (within the meaning of section 19 of the 1977 Act); or
 - (e) the order is made in proceedings brought as mentioned in section 88(1) above.

PART V

AMENDMENT OF PART V OF HOUSING ACT 1957

90 Review of housing conditions by local authorities

In section 91 of the 1957 Act (duty of every local authority to consider housing conditions and as often as occasion arises to submit proposals to the Minister for the provision of new houses) the words from " and as often " to the end are hereby repealed.

91 Power of local authorities to dispose of land held for purposes of Part V of Housing Act 1957

- (1) For section 104 of the 1957 Act (power to dispose of property acquired or appropriated for purposes of Part V) there is substituted the following section—

“104 Power to dispose of land held for purposes of Part V.

- (1) Without prejudice to the provisions of Chapter I of Part I of the Housing Act 1980 (right to buy public sector houses), a local authority shall have power by this section, but not otherwise, to dispose of any land which they have acquired or appropriated for the purposes of this Part of this Act.

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- (2) A disposal under this section may be effected in any manner but is not to be made without the consent of the Minister, except in a case falling within subsection (3) below.
 - (3) No consent is required for the letting of any land under a secure tenancy (within the meaning of section 28 of the Act of 1980) or under what would be a secure tenancy but for any of paragraphs 2 to 13 of Schedule 3 to that Act (certain lettings which do not create secure tenancies).
 - (4) On the disposal of any house under this section by way of sale or by the grant or assignment of a lease at a premium the local authority may, if they think fit, agree to the price or premium, or any part thereof, and any expenses incurred by the purchaser being secured by a mortgage of the premises.
 - (5) Subject to section 104A of this Act, on any disposal under this section the local authority may impose such covenants and conditions as they think fit, but a condition of any of the kinds mentioned in subsection (6) below may only be imposed with the consent of the Minister.
 - (6) The conditions are—
 - (a) one limiting the price or premium which may be obtained on a further disposal of the house;
 - (b) in the case of a sale, one precluding the purchaser (including any successor in title of his and any person deriving title under him or any such successor) from selling or leasing the land unless—
 - (i) he first notifies the authority of the proposed sale or lease and offers to sell or lease the house to them; and
 - (ii) the authority refuse the offer or fail to accept it within one month after it is made; and
 - (c) in the case of a lease, one precluding the lessee (including any successor in title of his and any person deriving title under him or any such successor) from assigning the lease, or granting any sub-lease.
 - (7) Section 26(1) of the Town and Country Planning Act 1959 (power of local authorities etc. to dispose of land without consent of Minister) does not apply to any disposal under this section.
 - (8) Sections 128 to 132 of the Lands Clauses Consolidation Act 1845 (which relate to the sale of superfluous land) do not apply to the sale by a local authority, under this section, of any land acquired by the authority for the purposes of this Part of this Act.
 - (9) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, any land is a disposal and any consent given to such a disposal extends to any disposal made in pursuance of the option.”.
- (2) Sections 105 (1), (2) and (5) (power to deal with land in addition to that given by section 104), and 106 (power of Minister to impose conditions on sale of houses and land), of the 1957 Act are hereby repealed.
 - (3) Section 39 of the Town and Country Planning Act 1968 (cases where section 26(1) of the Town and Country Planning Act 1959 does not apply) is hereby repealed.
 - (4) In section 104 and in the sections inserted in the 1957 Act by sections 92 and 95 below " the Minister " means the Secretary of State.

92 Consent to disposals and recovery of discount

After section 104 of the 1957 Act there are inserted the following sections—

“104A Consents under section 104.

- (1) Any consent of the Minister required under section 104(2) or (5) of this Act may be given either generally to all local authorities or to any particular local authority or description of authority and either in relation to any particular land or description of land.
- (2) Any such consent may be given subject to such conditions as the Minister sees fit to impose.
- (3) Without prejudice to the generality of subsection (2) above, any such consent may be given subject to conditions as to the price, premium or rent to be obtained on a disposal under section 104. 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 local authority.

104B Repayment of discount on early disposal of freehold or lease.

- (1) This section applies where, on a disposal under section 104 of this Act (the "first disposal "), a discount has been given to the purchaser by the local authority in accordance with a consent given by the Minister under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.
- (2) On the first disposal, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to pay to the local authority on demand the amount specified in subsection (3) below if, within a period of five years, there is a disposal falling within subsection (4) below, (the " further disposal"); but if there is more than one further disposal, then only on the first of them.
- (3) The amount payable under the covenant is an amount equal to the discount given to the purchaser, but reduced by 20 per cent, of that discount for each complete year which elapses after the first disposal and before the further disposal.
- (4) A disposal falls within this subsection if it is—
 - (a) a conveyance of the freehold or an assignment of the lease; or
 - (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent;
 whether the disposal is of the whole or part of the house; but a disposal in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 or under section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 or a vesting in a person taking under a will or on an intestacy is not a disposal falling within this subsection.
- (5) The liability that may arise under the covenant required by subsection (2) above shall be a charge on the house—

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- (a) taking effect as if it had been created by deed expressed to be by way of legal mortgage; and
 - (b) having priority immediately after any legal charge securing any amount left outstanding by the purchaser or advanced to him by a body specified in subsection (6) below for the purpose of enabling him to acquire the interest disposed of on the first disposal or further advanced to him by that body.
- (6) The bodies referred to in subsection (5)(b) above are any building society and any of the bodies specified in paragraph 6, 7 or 8 of the Schedule to the Home Purchase Assistance and Housing Corporation Guarantee Act 1978.
- (7) A charge taking effect by virtue of subsection (5) above shall, notwithstanding subsection (5) of section 59 of the Land Registration Act 1925, be a land charge for the purposes of that section, and subsection (2) of that section shall apply accordingly with respect to its protection and realisation.
- (8) The reference in subsection (4) above to a lease or sub-lease does not include a mortgage term.
- (9) In this section " building society" means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967 and " purchaser" means the person acquiring the interest disposed of by the first disposal; and for the purposes of this section the grant of an option enabling a person to call for a disposal falling within subsection (4) above shall be treated as such a disposal.

104C Houses in National Parks and areas of outstanding natural beauty, etc.

- (1) Where a conveyance, grant or assignment executed under section 104 of this Act (the " first disposal ") is of a house situated in a National Park, or an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or an area designated by order of the Secretary of State as a rural area, the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 104(6)(b) or (c) above) contain a covenant limiting the freedom of the purchaser and his successors in title to dispose of the house in the manner specified in subsection (2) below.
- (2) The limitation is that, until such time (if any) as may be notified in writing by the local authority to the purchaser or his successors in title there will be no disposal falling within subsection (4) below (the " further disposal") without the written consent of the local authority; but that consent shall not be withheld if the further disposal is to a person satisfying the condition stated in subsection (3) below.
- (3) The condition is that the person to whom the further disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent, either—
- (a) had his place of work in a designated region which or part of which is comprised in the National Park or area ; or
 - (b) had his only or principal home in such a region;

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

- (4) A disposal falls within this subsection if it is—
- (a) a conveyance of the freehold or an assignment of the lease ; or
 - (b) the grant of a lease or sub-lease for a term of more than 21 years otherwise than at a rack rent;
- whether the disposal is of the whole or part of the house; but a disposal in pursuance of an order under section 24 of the Matrimonial Causes Act 1973 or under section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 or a vesting in a person taking under a will or on an intestacy is not a disposal falling within this subsection.
- (5) If the further disposal is in breach of the covenant mentioned in subsection (1) above, it shall be void.
- (6) The limitation imposed by such a covenant shall be a local land charge and, if the land is registered under the Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of that Act.
- (7) The reference in subsection (4) above to a lease or sub-lease does not include a mortgage term.
- (8) In this section " purchaser " means the person acquiring the interest disposed of by the first disposal.
- (9) In this section " designated region " means an area designated for the purposes of this section by order of the Secretary of State.
- (10) For the purposes of this section the grant to any person of an option enabling him to call for a disposal falling within subsection (4) above shall be treated as such a disposal made to that person and a consent to such a grant as a consent to a disposal made in pursuance of the option.”.

93 Acquisition of land for purpose of its subsequent disposal

It is hereby declared that—

- (a) the power of a local authority to acquire land under section 96 of the 1957 Act (power of local authority to acquire land for provision of housing accommodation) includes power to do so for the purpose of disposing of houses erected, or to be erected, on the land or of disposing of the land to a person who intends to provide housing accommodation on it; and
- (b) the things that a local authority may do under section 92 of that Act (mode of provision of accommodation) may equally be done in relation to land acquired for either of those purposes.

94 Options granted before commencement of section 91

The limitations on a local authority's statutory power to dispose of houses acquired or appropriated for the purposes of Part V of the 1957 Act shall not be taken to have prevented a local authority, at any time before the commencement of section 91 of this Act, from granting to the tenant of a house an option to purchase the freehold of, or any other interest in, the house.

95 Appropriation of land

After section 110 of the 1957 Act there is inserted the following section—

“110A Appropriation of Part V land for other purposes.

- (1) Where a local authority have acquired or appropriated any land for the purposes of this Part of this Act they shall not, without the consent of the Minister, appropriate any part of that land which consists of a house or part of a house for any other purpose.
- (2) Any consent under this section may be given either generally to all local authorities or to any particular local authority or description of authority and either in relation to any particular land or description of land.
- (3) Any such consent may be given subject to such conditions as the Minister sees fit to impose.”.

PART VI

HOUSING SUBSIDIES

96 New housing subsidy to replace certain existing subsidies and contributions **Local authorities**

- (1) For the year 1981-82 and subsequent years—
 - (a) a subsidy, to be known as housing subsidy, shall be payable to local authorities, new town corporations and the Development Board for Rural Wales in accordance with this Part of this Act;
 - (b) no payment shall be made under any of the enactments listed in Part I of Schedule 11 to this Act; and
 - (c) no payment shall be made under any of the enactments listed in Part II of Schedule 11 to this Act in respect of dwellings within a local authority's Housing Revenue Account or a new town corporation's housing account.
- (2) No grant shall be made after 31st March 1981 under section 14 of the Housing (Financial Provisions) Act 1958 (grants for building experiments).

Local authorities

97 Housing subsidy for local authorities

- (1) The amount of the housing subsidy payable to a local authority for any year (the year of account) shall be calculated from the amounts which are the authority's—
 - (a) base amount (BA);
 - (b) housing costs differential (HCD); and
 - (c) local contribution differential (LCD);for that year and shall be so calculated by using the formula
$$\mathbf{BA + HCD - LCD}$$

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- (2) If the amount so calculated is nil or a negative amount, no housing subsidy is payable to the authority for the year of account.

98 The base amount

- (1) A local authority's base amount is, subject to any adjustment under this section.—
- (a) for the year 1982-83 or any subsequent year, the amount calculated for the preceding year under section 97, that is to say, the amount of subsidy payable to the authority for the year (or, if none was payable, nil or a negative amount, as the case may be);
 - (b) for the year 1981-82, the aggregate of the following amounts payable to the authority for the year 1980-81, that is to say—
 - (i) the amount of housing subsidy under section 2 of the 1975 Act;
 - (ii) the amount (if any) of expanding towns subsidy under section 4 of the 1975 Act; and
 - (iii) the amount of any contribution under the enactments listed in Part II of Schedule 11 which is payable in respect of any dwelling within the authority's Housing Revenue Account.
- (2) If the Secretary of State is of opinion that particular circumstances require it, he may adjust the base amount for any year by increasing or decreasing it, either generally or in relation to any description of authority or any particular authority ; and, without prejudice to the generality of this provision, he may adjust the base amount for the year 1981-82 by excluding from the amount taken into account as housing subsidy under section 2 of the 1975 Act so much of the new capital costs element and the high costs element as was in his opinion attributable to capital costs directly charged to revenue.

99 The housing costs differential

- (1) A local authority's housing costs differential for any year of account is the amount by which its reckonable expenditure for that year exceeds its reckonable expenditure for the preceding year (and accordingly is nil or, as the case may be, a negative amount if its reckonable expenditure for the year of account is the same or less).
- (2) A local authority's reckonable expenditure for any year is the aggregate of—
- (a) so much of the expenditure incurred by the authority in that year and falling to be debited to its Housing Revenue Account as the Secretary of State may determine ; and
 - (b) so much of any other expenditure incurred by the local authority in that year or treated, in accordance with any determination made by the Secretary of State, as so incurred, as the Secretary of State may determine to take into account for the purposes of housing subsidy.
- (3) A determination under this section may be made for all local authorities or different determinations may be made for authorities of different descriptions or for authorities in England and authorities in Wales or in different parts of England or Wales or for individual authorities ; and any such determination may be varied or revoked in relation to all or any of the authorities for which it was made.
- (4) Before making a determination for all local authorities the Secretary of State shall consult with organisations appearing to him to be representative of local authorities.

100 The local contribution differential

- (1) A local authority's local contribution differential for any year of account is the amount by which its reckonable income for that year exceeds its reckonable income for the preceding year (and accordingly is nil or, as the case may be, a negative amount if its reckonable income for the year of account is the same or less).
- (2) A local authority's reckonable income for any year is the amount which, in accordance with any determination made by the Secretary of State, the local authority is assumed to receive for that year as income which it is required to carry to its Housing Revenue Account, but—
 - (a) excluding, subject to paragraph (b) below, any income derived from any subsidy, grant or contribution; and
 - (b) including any contribution made by the authority out of its general rate fund as well as any modified rent rebate subsidy payable under section 3 of the 1975 Act.
- (3) A determination under this section shall state the assumptions on which it is based and the method of calculation used in it, and in making it the Secretary of State shall have regard, among other things, to past and expected movements in incomes, costs and prices.
- (4) A determination under this section may be made for all local authorities or different determinations may be made for authorities of different descriptions or for authorities in England and authorities in Wales or in different parts of England or Wales or for individual authorities, and every determination shall be made known in the year preceding the year of account to the local authorities for which it is made.
- (5) Before making a determination for all local authorities the Secretary of State shall consult with organisations appearing to him to be representative of local authorities.

Other housing authorities

101 Housing subsidy for other bodies

- (1) Sections 97 to 100 above apply in relation to new town corporations and the Development Board for Rural Wales as they apply in relation to local authorities, but subject to the following provisions of this section.
- (2) In relation to a new town corporation—
 - (a) section 98 has effect as if the aggregate mentioned in subsection (1)(b) included so much of the grant made to the corporation for the year 1980-81 under section 42(2) or 42(3A) of the New Towns Act 1965 as was to be credited to the corporation's housing account; and
 - (b) sections 98, 99 and 100 have effect as if for references to the Housing Revenue Account there were substituted references to the housing account and for the reference to the general rate fund a reference to the general revenue account.
- (3) In relation to the Board.—
 - (a) section 98 has effect as if for the references to section 2 of the 1975 Act there were substituted references to section 18 of the Development of Rural Wales Act 1976 and the aggregate mentioned in subsection (1)(b) included so much of the grants made to the Board for the year 1980-81 under section 11 of the Act of 1976 as was to be credited to its housing account; and

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- (b) sections 99 and 100 have effect as if for references to the Housing Revenue Account there were substituted references to the housing account, and the contribution and rent rebate subsidy referred to in section 100(2)(6) were respectively any contribution made by the Board out of revenue and the subsidy payable under section 19 of the Act of 1976.
- (4) The consultations required by section 99(4) or 100(5) shall be with organisations appearing to the Secretary of State to be representative of new town corporations or, as the case may be, with the Development Board for Rural Wales.
- (5) The Commission for the New Towns is to be treated as a separate body in respect of each of its new towns.

Recoupment

102 Recoupment of subsidy

- (1) Where any subsidy has been paid to any local authority or other body under this Part of this Act, and it appears to the Secretary of State that—
 - (a) the purpose for which it was paid has not been fulfilled or not completely or adequately or not without unreasonable delay; and
 - (b) that the case falls within rules published by him;
 he may recover from the authority or other body the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) A sum recoverable under this section may be recovered either as a simple contract debt or by withholding or reducing housing subsidy payable in any year or in successive years.
- (3) The withholding or reduction under this section of housing subsidy payable to a local authority or other body for any year shall not affect the authority's or other body's base amount for the following year.

Administration

103 Administration of housing subsidy

- (1) Housing subsidy shall be paid out of moneys provided by Parliament and shall be credited—
 - (a) if paid to a local authority, to the authority's Housing Revenue Account; and
 - (b) if paid to another body, to that body's housing account or appropriate housing account.
- (2) Housing subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (3) Payment of subsidy shall be subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.

Transitional town development subsidy

104 Power to commute transitional town development subsidy and payments to receiving authority

- (1) Where, under section 5 of the 1975 Act, transitional town development subsidy is payable to a sending authority for years later than the year 1979-80 the Secretary of State may, with the agreement of the sending authority and of the receiving authority, determine—
 - (a) to commute further payments of transitional development subsidy into a single payment of an amount determined by him or calculated in a manner determined by him; and
 - (b) to commute the corresponding payments by the sending authority to the receiving authority under subsection (6) of that section into a single payment of an amount four times that payable under paragraph (a) above.
- (2) In making a determination under this section the Secretary of State shall make such allowance (if any) as appears to him appropriate for circumstances in which, if there were no commutation, his power under section 5 of the 1975 Act to reduce or discontinue the sending authority's transitional town development subsidy might be exercised.

Interpretation

105 Interpretation of Part VI

In this Part of this Act—

" local authority " means the council of a district or London borough, the Greater London Council, the Common Council of the City of London or the Council of the Isles of Scilly;

" new town corporation " means a development corporation (within the meaning of the New Towns Act 1965) or the Commission for the New Towns ;

" year " means any period of 12 months beginning on a 1st April;

" year of account " means the year for which any housing subsidy is or may be payable under this Part of this Act.

PART VII

HOUSING: FINANCIAL AND RELATED PROVISIONS

Repairs and improvements

106 Grants for tenants under Part VII of Housing Act 1974

- (1) A local authority may entertain an application for a grant under Part VII of the 1974 Act from a person who has, in relation to his dwelling—
 - (a) a protected tenancy or a statutory tenancy ;
 - (b) a secure tenancy ;

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- (c) a tenancy to which section 1 of the Landlord and Tenant Act 1954 applies and of which less than 5 years remain unexpired at the date of the application ;
 - (d) a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976 ; or
 - (e) a tenancy which satisfies such conditions as may be prescribed,
- but not where the application is for an improvement grant in respect of works required for the provision of a dwelling.
- (2) A local authority may refuse to entertain the application unless it is accompanied by a certificate given by a qualified person and stating his intention that, throughout the period of 5 years beginning with the certified date—
- (a) the dwelling will be let or available for letting as a residence, and not for a holiday, to a person other than a member of the family of the person giving the certificate; or
 - (b) the dwelling will be occupied or available for occupation by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant,
- (disregarding any part of that period in which neither of the above paragraphs applies but the dwelling is occupied by a protected occupier under the Rent (Agriculture) Act 1976).
- (3) A person is qualified to give a certificate for the purposes of subsection (2) if the local authority could (apart from this section) have entertained an application from him.
- (4) Unless the application is accompanied by that certificate, the authority shall not impose any of the grant conditions specified in section 74(2) of the 1974 Act (future letting of a dwelling).
- (5) Expressions defined for the purposes of Part VII of the 1974 Act have the same meanings in this section as they have in that Part.

107 Miscellaneous changes in Part VII of Housing Act 1974

The provisions of Part VII of the 1974 Act relating to local authority improvement, repairs and other grants are amended in accordance with Schedule 12 to this Act (amendments to alter certain conditions of grants, relax other conditions, and make other minor and consequential changes).

108 Disposal of houses after repair, improvement or conversion

- (1) The Secretary of State may, with the consent of the Treasury, make schemes for making contributions out of moneys provided by Parliament to the net cost (as determined under the schemes) to local authorities of disposing of dwellings in cases of the kind mentioned in subsection (2) below.
- (2) Those cases are where an authority—
- (a) disposes of a house as one dwelling ;
 - (b) divides a house into two or more separate dwellings and disposes of them ; or
 - (c) combines two houses to form one dwelling and disposes of it,
- after carrying out works of repair, improvement or conversion.

- (3) The cost towards which contributions may be made under such a scheme shall not exceed £5,000 for any one dwelling, but the Secretary of State may, by order made with the consent of the Treasury, substitute another amount for £5,000.
- (4) In this section—
 - " house " includes a flat;
 - " local authority " means the council of a district or London borough, the Greater London Council, the Common Council of the City of London or the Council of the Isles of Scilly.
- (5) Section 79 of the 1974 Act (payment of improvement contributions to housing authorities) is hereby repealed.

109 General improvement areas, housing action areas and priority neighbourhoods

- (1) The enactments relating to general improvement areas and housing action areas are amended in accordance with Schedule 13 to this Act.
- (2) Part VI of the 1974 Act (priority neighbourhoods) shall cease to have effect but without prejudice to the status of any land as part of a priority neighbourhood declared before the commencement of this section.
- (3) Section 29B of the 1969 Act (incorporation of priority neighbourhood into general improvement area) shall cease to have effect; but—
 - (a) any land comprised in a priority neighbourhood declared before the commencement of this section shall cease to be such land on the area comprising the land becoming a general improvement area; and
 - (b) this subsection does not affect the operation of section 29B in any case where a preliminary resolution under that section was passed before the commencement of this section.

Mortgages and home ownership

110 Local authority mortgage interest rates

- (1) Where, after the commencement of this subsection, a local authority—
 - (a) advances money for any of the purposes mentioned in subsection (2) below ;
or
 - (b) on the disposal of any dwelling-house, allows or has to allow any sum to be left outstanding on the security of the dwelling-house; or
 - (c) takes a transfer of a mortgage in pursuance of section 111 of this Act;the provision to be made by it with respect to interest on the sum advanced or remaining outstanding shall comply with the following provisions of this section, unless the advance, disposal or transfer is made in pursuance of a binding contract entered into before the commencement of this subsection or entered into by the acceptance of an offer made by the local authority which was capable of being accepted before the commencement of this subsection.
- (2) The purposes mentioned in subsection (1)(a) above are—
 - (a) acquiring a house ;
 - (b) constructing a house ;

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- (c) converting another building into a house or houses or acquiring another building and converting it into a house or houses;
 - (d) altering, enlarging, repairing or improving a house ; and
 - (e) facilitating the repayment of an amount outstanding on a previous loan made for any of the purposes specified in paragraphs (a) to (d) above ;
- and " house " in this subsection has the same meaning as in the Housing (Financial Provisions) Act 1958.
- (3) The rate of interest shall be whichever is for the time being the higher of the following, namely—
- (a) the standard national rate (as defined in subsection (4) below); and
 - (b) the applicable local average rate (as defined in subsection (5) below);
- and shall be capable of being varied by the local authority whenever a change in either or both of those rates requires it; and the amount of the periodic payments shall be capable of being varied correspondingly.
- (4) The standard national rate is the rate for the time being declared as such by the Secretary of State after taking into account interest rates charged by building societies in the United Kingdom and any movement in those rates.
- (5) The applicable local average rate is whichever of the two rates for the time being declared by the local authority in accordance with subsection (6) below is applicable.
- (6) A local authority shall for such period not exceeding six months and beginning at the commencement of subsection (1) above as it may determine and for every subsequent period of six months declare, on a date falling within the month immediately preceding that period, a rate applicable to the advances and transfers mentioned in subsection (1) (a) and (c) above and a rate applicable to the sums left outstanding as mentioned in subsection (1)(6) above; and—
- (a) the rate applicable to those advances and transfers shall be a rate exceeding by \ per cent, that which the authority estimates it has to charge in order to service the loan charges on money borrowed or to be borrowed by the authority for the purpose of such advances and transfers; and
 - (b) the rate applicable to the sums left outstanding shall be a rate exceeding by \ per cent, the average, on the date the rate is declared, of the rates at which all loan charges debited to the authority's appropriate account are serviced.
- (7) The appropriate account for the purposes of paragraph (b) of subsection (6) above is—
- (a) for sums left outstanding on the disposal of dwelling houses held by a local authority under Part V of the 1957 Act, the authority's Housing Revenue Account; and
 - (b) for any other sums left outstanding, the general fund if the authority is the Greater London Council or the Council of the Isles of Scilly, the county fund if it is the council of a county, the general rate if it is the Common Council of the City of London and the general rate fund in any other case ;
- and in that subsection " loan charges " has the meaning given by section 104(3)(b) of the 1972 Act (or, in relation to the council of a county, the meaning that would be so given if the council were a housing authority within the meaning of that Act).
- (8) Where, on any such change as is mentioned in subsection (3) above, a rate of interest is capable of being varied, the local authority shall vary it and shall serve on the person liable to pay the interest notice in writing of the variation not later than two months

- after the change; and the variation shall take effect with the first payment of interest due after a date specified in the notice, which—
- (a) if the variation is a reduction, shall be not later than one month after the change ; and
 - (b) if the variation is an increase, shall be not earlier than one month nor later than three months after the service of the notice.
- (9) On a variation, in accordance with subsection (8) above, of a rate of interest the local authority may make a corresponding variation of the periodic payments, which shall be notified and take effect together with the variation of the rate of interest; and it shall do so if otherwise the period over which the repayment of principal is to be made would be reduced below the period fixed when the mortgage was effected.
- (10) The Secretary of State may by notice in writing to a local authority direct it to treat a rate specified in the notice as being the higher of the rates mentioned in subsection (3) above, either during a period specified in the notice or until further notice, and may by a further notice in writing vary or withdraw any direction so given ; and where such a direction is given the preceding provisions of this section shall have effect accordingly.
- (11) This section shall not prevent a local authority, if the conditions stated in subsection (12) below are satisfied, from giving assistance to a person acquiring a house in need of repair or improvement by making provision for waiving or reducing, for a period ending not later than five years after the date of the advance mentioned in subsection (1)(a) above or the disposal mentioned in subsection (1)(b) above, the interest payable on the sum advanced or remaining outstanding and for dispensing during that period with any repayment of principal.
- (12) The conditions mentioned in subsection (11) above are that—
- (a) the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be specified in an order made by the Secretary of State with the consent of the Treasury ; and
 - (b) the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (13) This section shall not prevent a local authority from giving assistance in the manner provided by section 1(4)(b) of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (part of certain loans to be free of interest for up to five years).
- (14) This section does not apply to loans made by local authorities to housing associations under section 119 of the 1957 Act.
- (15) In this section " local authority " means the council of a county, the council of a district or London borough, the Greater London Council, the Common Council of the City of London or the Council of the Isles of Stilly.

111 Local authority and Housing Corporation indemnities for building societies

- (1) Local authorities and the Housing Corporation may, with the approval of the Secretary of State, enter into agreements with building societies lending on the security of house property whereby, in the event of default by the mortgagor, and in circumstances and

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subject to conditions specified in the agreements, an authority or the Corporation binds itself to indemnify the building society in respect of—

- (a) the whole or part of the mortgagor's outstanding indebtedness ; and
 - (b) any loss or expense falling on the building society in consequence of the mortgagor's default.
- (2) In subsection (1) above " house property " means any property which is a house for the purposes of the Housing (Financial Provisions) Act 1958.
- (3) The agreement may also, where the mortgagor is made party to it, enable or require the authority or the Corporation in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society being then discharged in respect of them.
- (4) The transfer may be made to take effect—
- (a) on any terms provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one); and
 - (b) so that the authority or the Corporation are treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (5) The Secretary of State may under subsection (1) approve particular agreements or give notice that particular forms of agreement have his approval; and—
- (a) he may in either case make the approval subject to conditions;
 - (b) he shall, before giving notice that a particular form has his approval, consult the Chief Registrar of Friendly Societies and such organisations representative of building societies and local authorities as he thinks expedient.
- (6) In this section " local authority " means a county or district council, the Greater London Council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.
- (7) In this section " building society " means a society within the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.
- (8) Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply association to members) shall not apply to recommendations made to building societies about the making of agreements under this section, provided that the recommendations are made with the approval of the Secretary of State, which may be withdrawn at any time on one month's notice.

112 Vesting of mortgaged property by local authorities

- (1) The following provisions of this section apply where, before the commencement of section 91(1) above, a local authority has sold any property under the powers of section 104(1) of the 1957 Act and—
- (a) part of the price was secured by a mortgage on the property; and
 - (b) such a condition was imposed on the sale as is mentioned in section 104(3) (c) of that Act (right of pre-emption) ; and
 - (c) the period during which the authority has the right to re-acquire the property under that condition has not expired.

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- (2) If the authority as mortgagee has become entitled to exercise the power of sale conferred by section 101 of the Law of Property Act 1925 or by the mortgage deed, it may, if the county court gives it leave to do so, by deed vest the property in itself—
 - (a) for such estate and interest in the property as is the subject of the mortgage or as it would be authorised to sell or convey under that Act on exercising its power of sale; and
 - (b) freed from all estates, interests and rights to which the mortgage has priority, but subject to all estates, interests and rights which have priority to the mortgage.
- (3) Accordingly, on the vesting of the property the authority's mortgage term or charge by way of legal mortgage, and any subsequent mortgage term or charge, shall merge or be extinguished as respects the property vested.
- (4) Where the title to the property is registered under the Land Registration Acts 1925 to 1971 the Chief Land Registrar shall, on application being made to him by the local authority, register the authority as proprietor of the property, free from all estates, interests and rights to which its mortgage had priority, and he shall not be concerned to inquire whether any of the requirements of this and the following section were complied with.
- (5) Where a local authority conveys the property, or part of it, to any person—
 - (a) he shall not be concerned to inquire whether any of the provisions of this or the following section were complied with; and
 - (b) his title shall not be impeachable on the ground that the property was not properly vested in the authority or that those provisions were not complied with.
- (6) Where application for leave under this section is made to the county court, the county court may adjourn the proceedings or postpone the date for the execution of the local authority's deed for such period or periods as the court thinks reasonable.
- (7) Any such adjournment or postponement may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedy of any default as the court thinks fit; and the court may from time to time vary or revoke any such condition.
- (8) Property vested under this section shall be treated as acquired under Part V of the 1957 Act.

113 Compensation and accounting under s. 112

- (1) Where, under section 112 above, a local authority has vested any property in itself it shall appropriate a fund equal to the aggregate of—
 - (a) the price at which the authority could have re-acquired the property by virtue of the condition mentioned in section 112(1)(b) above; and
 - (b) interest on that price for the period beginning with the vesting and ending with the appropriation at the rate or rates prescribed for that period under section 32 of the Land Compensation Act 1961.
- (2) The fund shall be applied—
 - (a) first, in discharging, or paying sums into court for meeting, any prior incumbrances to which the vesting is not made subject;

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- (b) secondly, in recovering costs, charges and expenses properly incurred by the authority as incidental to the vesting of the property; and
- (c) thirdly, in recovering the mortgage money, interest, costs, and other money (if any) due under the mortgage ;

and any residue then remaining in the fund shall be paid to the person entitled to the mortgaged property, or who would have been entitled to give receipts for the proceeds of sale of the property if it had been sold in exercise of the power of sale.

- (3) Section 107(1) of the Law of Property Act 1925 (mortgagee's written receipt sufficient discharge for money arising under power of sale) applies to money payable under this section as it applies to money arising under the power of sale conferred by that Act.

114 Subsidised home loans-amendments as to options

- (1) If an option notice under Part II of the Housing Subsidies Act 1967 (subsidised loans for house purchase and improvement) is given—
 - (a) with the qualifying lender's agreement and in such circumstances or in such cases or descriptions of case as may be specified in directions given by the Secretary of State; or
 - (b) not earlier than twelve months after the date of the repayment contract;
 it shall have effect notwithstanding that the conditions specified in section 24(3) (a) and (b) of the Act are not satisfied.
- (2) An option notice given under subsection (1) above takes effect from the first day of April falling not less than three months after the notice is given; but if it is given under subsection (1)(a) above and it is so agreed between the borrower and the qualifying lender, it takes effect on the first day of such month beginning not less than three months after it is given as is so agreed.
- (3) An option notice may be cancelled as from any end of March falling not less than twelve months after the date of the repayment contract by a notice given by the borrower to the lender not less than three months before the cancellation.
- (4) Unless authorised by order under subsection (5) below—
 - (a) an option notice given by virtue of subsection (1)(b) above cannot be cancelled by a notice under subsection (3) above; and
 - (b) where an option notice has been cancelled under subsection (3) above no further option notice can be given under subsection (1)(b) above in respect of the same repayment contract.
- (5) If it appears to the Secretary of State appropriate to do so having regard to any material change in taxation or other conditions likely to affect a borrower's decision whether or not to take a subsidised loan, he may by order authorise the giving or cancellation of option notices in accordance with subsections (1) to (3) above in such circumstances or descriptions of case as may be specified in the order.
- (6) An order under subsection (5) above shall not authorise the giving of any option notice or of a notice cancelling an option notice later than twelve months after the end of the year in which the order is made.
- (7) A notice under subsection (3) above must be in writing and in such form as the Secretary of State may direct; and the reference in that subsection to the borrower

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includes persons in whom the rights and obligations under the repayment contract are for the time being vested.

- (8) Before making an order under subsection (5) above the Secretary of State shall have such consultations with qualifying lenders or organisations representative of them as he thinks appropriate having regard to the purposes of the proposed order.
- (9) This section shall be construed, and Part II of the Act of 1967 shall have effect, as if this section were contained in that Part.

115 Subsidised loans-further application of Part II of 1967 Act

- (1) In relation to a loan which satisfies the two conditions stated in subsections (2) and (3) below Part II of the Housing Subsidies Act 1967 shall have effect as if the loan were for or in connection with one or more of the purposes specified in section 24(1) (b) of that Act.
- (2) The first condition is that the loan—
 - (a) is made as part of a scheme under which not less than nine-tenths of the proceeds of the loan are applied to the purchase by the person or persons to whom it is made of an annuity—
 - (i) ending, if the loan is made to one person, with his life or with the life of the survivor of two or more persons who include that person, and
 - (ii) ending, if the loan is made to more than one person, with the life of the survivor of two or more persons who include the persons to whom the loan is made; or
 - (b) was made under such a scheme before the commencement of this section.
- (3) The second condition is that each of the persons mentioned in subsection (2) above has attained the age of sixty-five years at the time the loan is made (or, if the loan was made before the commencement of this section, had attained that age at the time the loan was made).

116 Other amendments relating to subsidised loans

- (1) Part II of the Housing Subsidies Act 1967 is amended as shown in Schedule 14 (amendments to make new or altered provision about the conditions on which subsidised loans are to be available, the duration of subsidy and the bodies who are to be qualifying lenders).
- (2) Where a guarantee in respect of an advance by a building society to a borrower in Northern Ireland is given by an insurance company in pursuance of arrangements made under Article 14 of the Housing (Northern Ireland) Order 1978 (guarantee of advances in excess of normal amount)—
 - (a) the guarantee is to be regarded as an appropriate policy for the purposes of section 33(1) of the Building Societies Act 1962 (advances for the payment of certain premiums); and
 - (b) section 26(3) of that Act (which limits the amount of an advance where certain guarantees are given) does not apply to the guarantee.

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Other provisions about local authority housing finance

117 Rent allowance and rent rebate subsidy

- (1) The amount of rent allowance subsidy payable to a local authority (for the credit of the general rate fund) shall be 90 per cent, of the authority's standard amount of rent allowances for the year, as defined by section 20(8) of the 1972 Act.
- (2) In section 3 of the 1975 Act (modified rent rebate subsidy)—
 - (a) in subsection (3) (rate of subsidy) "90 per cent." is substituted for " 75 per cent. "; and
 - (b) in subsection (4)(a) (rate fund contribution) " 10 per cent." is substituted for " 25 per cent. ".
- (3) A local authority's rate fund contribution under section 3(4) of the 1975 Act, so far as payable under paragraph (a) of that subsection (percentage of standard amount of rent rebates), is not to count as relevant expenditure for the purposes of section 1 of the Local Government Act 1974 (rate support grant).
- (4) In section 19(2) of the Development of Rural Wales Act 1976 (rate of rent rebate subsidy payable to the Development Board for Rural Wales), " 90 per cent." is substituted for " 75 per cent. ".
- (5) This section applies in respect of subsidies payable for 1981-82 and subsequent years.

118 Rent rebates and allowances

Part II of the 1972 Act (rent rebates and allowances) shall have effect, in relation to the operation of rebate and allowance schemes after such date as the Secretary of State may by order appoint, subject to the amendments set out in Schedule 15 to this Act.

119 Rent rebates etc. and supplementary benefits

- (1) Except in accordance with directions of the Secretary of State, no rebate or allowance shall be paid by an authority under or by virtue of Part II of the 1972 Act to any person if, to the authority's knowledge—
 - (a) he is receiving supplementary benefit; or
 - (b) his income or resources fall to be aggregated under the 1972 Act or the Supplementary Benefits Act 1976 with those of another person who is receiving that benefit.
- (2) The Secretary of State may also give directions modifying the application of Part II of the 1972 Act (including Schedules 3 and 4) in circumstances where a person's entitlement to rebate or allowance is or may be affected by subsection (1) or directions under it.
- (3) Authorities shall supply the Secretary of State with such information in their possession as may be required to give effect to the Supplementary Benefits Act 1976; and the Secretary of State shall supply authorities with such information concerning claims for and payments of supplementary benefits as authorities may require to give effect to their rebate and allowance schemes.

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- (4) Part II of Schedule 3 to the 1972 Act and Part II of Schedule 4 to that Act (provisions superseded by this section regarding relationship between supplementary benefits and rent rebates and allowances) are hereby repealed.
- (5) In this section " authority " means any of those bodies which under Part II of the 1972 Act operate rent rebate or rent allowance schemes; and " supplementary benefit " means the same as in that Part of that Act.
- (6) In section 22 of the 1972 Act (permitted totals of rent rebates and allowances) after subsection (1) there are inserted the following subsections—
 - “(1A) The Secretary of State may, on application by an authority, direct that the authority's permitted total of rebates or allowances for such period as may be specified in the direction shall be such proportion of their standard amount of rent rebates or, as the case may be, standard amount of rent allowances, greater than 110 per cent., as may be specified in the direction.
 - (1B) Any direction given under subsection (1A) above may be made conditional upon compliance by the authority concerned with such conditions as may be specified in the direction.”

PART VIII

HOUSING ASSOCIATIONS AND THE HOUSING CORPORATION

120 Borrowing powers of Housing Corporation

- (1) In section 7(5) of the 1974 Act (which limits the aggregate amount outstanding in respect of certain advances and loans to the Housing Corporation and its subsidiaries to £400 million but enables the limit to be raised to £750 million) for " £400 million " and " £750 million " there are substituted respectively " £2,000 million " and " £3,000 million ".
- (2) In ascertaining the limit imposed by that section any interest payable under section 7(6) of that Act on a loan made by the Secretary of State to the Housing Corporation which, with the approval of the Treasury, is deferred and treated as part of the loan, shall, so far as outstanding, be treated as outstanding by way of principal, whether the loan was made before or is made after the commencement of this section.

121 Grants to and by Housing Corporation

- (1) The Secretary of State may, with the consent of the Treasury, make out of moneys provided by Parliament such grants to the Housing Corporation as appear to him required to enable the Corporation to meet the expenses incurred by it in the exercise of its functions, and any such grant may be made subject to such conditions as he may with the consent of the Treasury determine.
- (2) In exercising its functions under section 1(2)(a) and (b) of the 1974 Act the Housing Corporation may, with the consent of the Secretary of State and of the Treasury, make grants—
 - (a) to registered housing associations towards the expenses incurred by them in carrying out the objects mentioned in section 13(3)(c) and (d) of that Act

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(advice on formation or running of other housing associations and provision of services for them); and

- (b) to other voluntary organisations towards the expenses incurred by them in carrying out the like objects ;

and any such grant may be made subject to such conditions as the Corporation may, with the consent of the Secretary of State and of the Treasury, determine.

- (3) In this section "voluntary organisation" means a body the activities of which are carried on otherwise than for profit.

122 Disposal of land by registered housing associations

- (1) Without prejudice to the provisions of Chapter I of Part I of this Act, every registered housing association shall, subject to section 2 of the 1974 Act (control by Housing Corporation of dispositions by housing associations), have power by virtue of this section, but not otherwise, to dispose in such manner as it thinks fit of any land held by it.
- (2) If, in a case where a registered housing association disposes of any land, section 39 of the Settled Land Act 1925 (disposal of land by trustees) would apply but for this subsection, that section shall not apply in relation to the disposal; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.
- (3) Nothing in subsection (2) above shall be taken to authorise any action on the part of a charity that would conflict with the trusts of the charity.
- (4) Subsections (2) to (9) of section 104B of the 1957 Act (repayment of discount on early disposal of freehold or lease), which is inserted in that Act by section 92 of this Act, apply (with the modification specified in subsection (5) below) in relation to a disposal by a registered housing association made under this section with the consent of the Housing Corporation, as they apply to a disposal by the local authority made under section 104 of that Act with the consent of the Secretary of State; and accordingly do not apply in any such case if the consent so provides.
- (5) The modification referred to in subsection (4) above is that the Housing Corporation is added to the bodies specified in subsection (6) of section 104B.
- (6) Section 104C of the 1957 Act (power to impose covenant limiting freedom to dispose of houses in National Parks and areas of outstanding beauty, etc.), which is also inserted in that Act by section 92 of this Act, shall apply in relation to a conveyance, grant or assignment executed under this section by a registered housing association as it applies to a conveyance, grant or assignment executed under section 104 of that Act by a local authority.

123 Consent of Housing Corporation to disposals of land by housing associations and housing trusts

- (1) Section 2 of the 1974 Act (control by Housing Corporation of dispositions of land by housing associations) is amended as follows.
- (2) After subsection (1) there are inserted the following subsections—

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

- “(1A) Any consent of the Corporation may be given either generally to all housing associations or to any particular association or description of association and either in relation to any particular land or description of land.
- (1B) Any such consent may be given subject to such conditions as the Corporation sees fit to impose.”.
- (3) For subsection (2) there is substituted the following subsection—
- “(2) Subsection (1) above shall not apply to a disposition by an unregistered housing association which is a charity if the disposition is one which, by virtue of subsection (1) or (2) of section 29 of the Charities Act 1960 (certain disposals not to take place without an order of the court or of the Charity Commissioners), cannot be made without such an order as is mentioned in that section.”.
- (4) After subsection (3) there is inserted the following subsection—
- “(3A) Subsection (1) above shall not apply to the letting, by a registered housing association or by an unregistered housing association which is a housing trust, of any land under a secure tenancy or under what would be a secure tenancy but for any of paragraphs 2 to 13 of Schedule 3 to the Housing Act 1980 or, as the case may be, but for any of paragraphs 2 to 7 of Schedule 1 to the Tenants' Rights, Etc. (Scotland) Act 1980.”.
- (5) In subsection (4), after the word " grant " there are inserted the words " by an unregistered housing association which does not satisfy the landlord condition in section 28 of the Housing Act 1980 (bodies which are capable of granting secure tenancies) ".
- (6) After subsection (5) there is inserted the following subsection—
- “(5A) Where a housing association has, at any time, made a disposition requiring the consent of the Corporation under this section, then—
- (a) in favour of any person claiming under the association, the disposition shall not be invalid by reason that any consent of the Corporation which is required has not been given ; and
- (b) a person dealing with the association or a person claiming under the association shall not be concerned to see or inquire whether any such consent has been given.”.
- (7) After subsection (6) there is inserted the following subsection—
- “(6A) In this section—
- ' housing trust' has the same meaning as in section 15 of the Rent Act 1977 ; and
- ' secure tenancy ' has the same meaning as in section 28 of the Housing Act 1980 or section 10 of the Tenants' Rights, Etc. (Scotland) Act 1980.”.

124 Accounts and audit

- (1) The Secretary of State may by order lay down accounting requirements for registered housing associations with a view to ensuring that the accounts of every registered housing association are prepared in the requisite form and give a true and fair view

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

of the state of affairs of the association, so far as its housing activities are concerned, and of the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.

- (2) The accounts of every registered housing association must comply with those requirements; and the auditor's report shall state (in addition to any other matters which it is required to state) whether in the auditor's opinion they do so comply.
- (3) Every registered housing association shall furnish to the Housing Corporation a copy of its accounts, and auditor's report within 6 months of the end of the period to which they relate.
- (4) A registered housing association which is a society registered under the Industrial and Provident Societies Act 1965 shall be subject to section 4(1) of the Friendly and Industrial and Provident Societies Act 1968 (obligation to appoint auditors), without regard to the volume of its receipts and payments, the number of its members or the value of its assets; and such an association is in no case to be treated as an exempt society under that section.
- (5) A registered housing association which is a registered charity but not a society registered under the Act of 1965 shall, in respect of its housing activities (and separately from its other activities, if any) be subject to Part I of Schedule 16 to this Act (provisions corresponding to those of the Act of 1968); but this does not affect any obligation falling on the charity in consequence of section 8 of the Charities Act 1960 (statement of accounts to be transmitted to Charity Commissioners).
- (6) The method by which an association shall distinguish in its accounts between its housing activities and other activities shall be as laid down by orders under subsection (1) above.
- (7) Subsections (2) to (6) above apply with respect to any period beginning on or after the day on which the first order under subsection (1) comes into force ; and the requirements contained in any order under that subsection shall not apply in relation to any period beginning before the day on which the order comes into force.

125 Enforcement of s. 124

- (1) All persons who are directly concerned with the conduct and management of the affairs of a registered housing association and are in that capacity responsible for the preparation and audit of accounts shall have the duty to ensure that section 124 and (where applicable) Part I of Schedule 16 are complied with by the association.
- (2) If—
 - (a) the accounts of a registered housing association, as furnished to the Housing Corporation under section 124(3), do not comply with the accounting requirements laid down under section 124(1); or
 - (b) section 124(3) is not complied with in respect of the accounts and auditor's report; or
 - (c) Part I of Schedule 16 is not complied with by an association which is a registered charity but not a society registered under the Act of 1965,
 the association as well as each of the persons on whom the above duty is imposed shall be liable on summary conviction to a fine not exceeding £200.
- (3) It is a defence—

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

- (a) for a person charged under subsection (2) above to prove that he did everything that could reasonably have been expected of him by way of discharging the duty imposed by subsection (1) above ; and
 - (b) for an association charged under subsection (2) above to prove that the persons mentioned in subsection (1) above did everything that could reasonably have been expected of them by way of discharging the duty imposed by subsection (1) above in relation to the association.
- (4) No proceedings for an offence under this section shall be instituted in England or Wales except by or with the consent of the Director of Public Prosecutions or the Housing Corporation

126 Payments to certain committee members and others

For subsections (3) to (6) of section 26 and for section 27 of the 1974 Act (payments to members etc. of registered 1965 Act associations and contracts with committee members) there shall be substituted the provisions set out in Part II of Schedule 16 to this Act.

127 Registration of housing associations

- (1) A housing association which is a society registered under the Industrial and Provident Societies Act 1965 may have among its objects those of—
- (a) acquiring houses to be disposed of on sale or on lease, or building houses to be disposed of on leases falling within subsection (2) below ;
 - (b) repairing and improving houses, or creating them by conversion of house or other property, with a view to such disposal,
- without preventing the association from being or, as the case may be, remaining registered by the Housing Corporation under section 13 of the 1974 Act.
- (2) A lease of a house falls within this subsection if—
- (a) it is granted on payment of a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it; or
 - (b) the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference directly or indirectly to the value of the house.
- (3) In this section " house " includes a flat.
- (4) Section 14 of the 1974 Act (the Housing Associations Registration Advisory Committee) is hereby repealed.

128 Removal of certain housing associations from register

- (1) In section 15 of the 1974 Act
- (a) after subsection (2) there is inserted the subsection set out below; and
 - (b) in subsection (6) for the words " this section " there are substituted the words " subsection (2) above ".
- (2) The subsection inserted after subsection (2) is:—
- “(2A) Where a body which is registered—

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

- (a) has not at any time received a grant under section 29 or section 32 below or any such payment or loan as is specified in paragraph 2 or paragraph 3 of Schedule 2 to this Act; and
 - (b) requests the Corporation to remove it from the register;
- the Corporation may, if they think fit, remove it from the register.”

129 Inquiries into affairs of registered housing association and power to act for its protection

Sections 19 and 20 of the 1974 Act are amended and extended in accordance with Schedule 17 to this Act.

130 Housing association grant

- (1) The Secretary of State may pay housing association grant under section 29 of the 1974 Act to a registered housing association in cases where the association— :
 - (a) disposes of a house as one dwelling ;
 - (b) divides a house into two or more separate dwellings and disposes of them ; or
 - (c) combines two houses to form one dwelling and disposes of it;
 after carrying out works of repair, improvement or conversion.
- (2) The maximum grant which may be paid in a case of the kind mentioned in subsection (1) above is £5,000 for any one dwelling, but the Secretary of State may, by order made with the consent of the Treasury, substitute another amount for £5.000.
- (3) In this section " house " includes a flat.
- (4) The provisions of Part III of the 1974 Act relating to housing association grant are amended in accordance with Schedule 18 to this Act.

131 Recoupment of surplus rental income

- (1) Every registered housing association which has at any time received a grant under section 29 of the 1974 Act shall show separately in its accounts for any period the surpluses arising from increased rental income during that period from housing projects in connection with which the grant was made.
- (2) The surpluses are to be shown by each association in a fund to be known as the Grant Redemption Fund; and the method of constituting the Fund and of showing it in the association's accounts is to be as required by order of the Secretary of State under section 124(1) above.
- (3) The surpluses in respect of any period are to be calculated in a manner determined by the Secretary of State for housing associations generally, and in determining it the Secretary of State may take account of the rental income received or capable of being received by an association and the management and maintenance costs and loan charges incurred or likely to be incurred by it.
- (4) The manner of calculating surpluses shall be determined after consultation with organisations appearing to the Secretary of State to be representative of registered housing associations, and shall be made known to the associations from time to time; and surpluses may be calculated differently for housing associations of different kinds or dwellings in different parts of Great Britain.

- (5) The Secretary of State may from time to time give notice to a registered housing association requiring it to pay to him, with interest, if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its Grant Redemption Fund at the end of a period of account.
- (6) Any interest demanded under subsection (5) above
- (a) shall be at the rate or rates 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 specified with the consent of the Treasury in the notice ; and
 - (b) shall be payable either from the date of the notice or from such earlier date, but not earlier than the end of the period of account, as the notice may specify.
- (7) Subsections (1) and (2) above apply to an association's accounts for any period beginning on or after the date on which the first order under section 124(1) above comes into force.

132 Amendment of rules of registered housing association

In section 24 of the 1974 Act the following subsection is inserted after subsection (5): —

“(5A) In relation to a registered 1965 Act association section 10 of the 1965 Act shall have effect as if—

- (a) in subsection (1) after the words " shall not be valid" there were inserted the words " without the consent of the Housing Corporation given by order under the seal of the Corporation nor " and after paragraph (b) there were inserted the words " and there shall also be sent with the copies of the amendment a copy of the Corporation's consent " ; and
- (b) in subsection (2) at the end of the words preceding the paragraphs there were inserted the words " notice of any such change shall be sent to the Housing Corporation and.”

133 Interpretation of Part VIII

- (1) In this Part of this Act—
- " registered charity" means a charity registered under section 4 of the Charities Act 1960, and "exempt charity " has the same meaning as in that Act;
- " registered housing association" means an association registered under section 13 of the 1974 Act.
- (2) For the purposes of this Part of this Act, the housing activities of a registered housing association are all those activities by reference to which it is to be regarded as a housing association (within the meaning given to that expression by section 189(1) of the 1957 Act or, as the case may be, section 208(1) of the Housing (Scotland) Act 1966) and as registrable under Part II of the 1974 Act.

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

PART IX

GENERAL

Housing Revenue Account and Housing Repairs Account

134 Working balance in Housing Revenue Account

- (1) Section 1(3) of the 1975 Act (restriction on working balances in Housing Revenue Account) shall cease to have effect.
- (2) Any authority which keeps a Housing Revenue Account may from time to time carry to the credit of its general rate fund (or, as the case may be, the general fund or the general rate) the whole or part of any balance in its Housing Revenue Account.

135 Housing Repairs Account

- (1) Any local authority may, for the year 1981-82 and for subsequent years, keep an account (to be known as the Housing Repairs Account) in accordance with this section.
- (2) Every authority which keeps a Housing Repairs Account shall credit to the account—
 - (a) contributions from its Housing Revenue Account;
 - (b) income arising from the investment or other use of money credited to the account; and
 - (c) sums received by the authority in connection with the repair or maintenance of any of its housing stock, either from its tenants or from the sale of scrapped or salvaged materials.
- (3) Every such authority shall debit to its Housing Repairs Account—
 - (a) all expenditure incurred by it in connection with the repair or maintenance of any of its housing stock ;
 - (b) any amount which is carried to the credit of its Housing Revenue Account in accordance with subsection (5) below; and
 - (c) such expenditure incurred by it in connection with the improvement or replacement of any of its housing stock as may from time to time be determined by the Secretary of State.
- (4) Every such authority shall ensure that sufficient credits are carried to its Housing Repairs Account to secure that the account never shows a debit balance.
- (5) If an authority considers that any credit balance in its Housing Repairs Account at the end of a year will not be required for the purposes of that account, it may carry some or all of the balance to the credit of its Housing Revenue Account.
- (6) If an authority which has opened a Housing Repairs Account ceases to maintain the account, any balance shall be carried to its Housing Revenue Account.
- (7) In paragraph 3(1) of Schedule 1 to the 1972 Act (items to be debited to Housing Revenue Account)—
 - (a) at the end of sub-paragraph (c) there are added the words " (except where that expenditure is properly debited to the Housing Repairs Account) "; and
 - (b) after that sub-paragraph there is inserted the following sub-paragraph—

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“(d) contributions from the account to the Housing Repairs Account.”

- (8) In paragraph 5(1) of Schedule 1 to the 1972 Act (Secretary of State's directions as to amounts to be credited or debited to Housing Revenue Account), after the words "Revenue Account" there are inserted the words " or, as the case may be, a Housing Repairs Account ".
- (9) Any determination by the Secretary of State under subsection (3)(c) above may be made to apply to local authorities generally or to a particular authority or group of authorities and may make different provision in respect of different cases or descriptions of case.
- (10) In this section—
- " expenditure " includes loan charges;
 - " housing stock " means any house or other property within a local authority's Housing Revenue Account;
 - " local authority " means the council of a district or London borough, the Greater London Council, the Common Council of the City of London or the Council of the Isles of Stilly.

Service charges

136 Service charges

- (1) Schedule 19 to this Act shall have effect, in place of sections 90 to 91A of the 1972 Act, in relation to periods ending after the commencement of this section, but subject to subsection (2) below.
- (2) In relation to works begun earlier than six months after the commencement of this section—
- (a) paragraphs 2 to 6 of Schedule 19 shall not apply, and
 - (b) sections 90 to 91A shall continue to apply.

Miscellaneous

137 Avoidance of certain unauthorised disposals

- (1) If—
- (a) at any time after 18th July 1980 a local authority or a housing association has disposed of a house, and
 - (b) the disposal was one which, under section 104 of the 1957 Act or section 2 of the 1974 Act, required the consent of the Secretary of State or of the Housing Corporation (or would have required it had the relevant provisions been in force) but was made without that consent;
- then, unless the disposal was to an individual (or to two or more individuals) and did not extend to any other house, it shall be void (and, if made before the passing of this Act, be deemed always to have been void) and section 128(2) of the Local Government Act 1972 or, as the case may be, subsection (5A) (inserted by section 123(6) of this Act) of section 2 of the 1974 Act (protection of purchasers) shall not apply.

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

- (2) In this section " house " includes a flat and " the relevant provisions " means Part I and sections 91 and 123 of this Act.

138 Displacement of residential occupiers by housing authority

In section 42(1) of the Land Compensation Act 1973 (which requires an authority acquiring or redeveloping land to indemnify another authority against the cost of rehousing a person displaced by the acquisition or redevelopment but only if the displacing authority is not an authority having functions under Part V of the 1957 Act) after the words "Housing Act 1957 " (in paragraph ((b)) there are inserted the words " or (if they are such an authority) the land is acquired or redeveloped by them otherwise than in the discharge of those functions " .

139 Housing co-operatives

Schedule 20 has effect for making in relation to housing co-operatives provisions corresponding to paragraph 9 of Schedule 1 to the 1975 Act and certain other provisions.

140 Exclusion of shared ownership tenancies from Leasehold Reform Act 1967

- (1) Where, after the commencement of this section, a tenancy of a house is created by the grant of a lease at a premium and either—
- (a) the lease is granted by a body mentioned in subsection (2) below and complies with the conditions set out in subsection (3) below ; or
 - (b) the lease is granted by a registered housing association and complies with the conditions set out in subsection (4) below;

the tenancy shall not be treated for the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) as being a long tenancy at a low rent at any time when the interest of the landlord belongs to such a body or, as the case may be, to a registered association.

- (2) The bodies referred to in subsection (1)(a) above are
- (a) the council of a district, the Greater London Council, the council of a London borough, the Common Council of the City of London or the Council of the Isles of Stilly;
 - (b) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1965 ;
 - (c) the Commission for the New Towns ;
 - (d) the Development Board for Rural Wales.
- (3) The conditions mentioned in subsection (1)(a) above are
- (a) that the lease provides for the tenant to acquire the freehold, whether under an option to purchase or otherwise, for a consideration which is to be calculated in accordance with the terms of the lease and which is reasonable, having regard to the premium or premiums paid by the tenant under the lease ; and
 - (b) that it states the landlord's opinion that by virtue of this section the tenancy will not be a long tenancy at a low rent for the purposes of the Leasehold Reform Act 1967 at any time when the interest of the landlord belongs to a body mentioned in subsection (2) above.

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- (4) The conditions mentioned in subsection (1)(b) above are—
 - (a) that the lease is granted at a premium which is calculated by reference to a percentage of the value of the house or of the cost of providing it;
 - (b) that at the time when it is granted it complies with the requirements of regulations made by the Secretary of State for the purposes of this section ; and
 - (c) that it states the landlord's opinion that by virtue of this section the tenancy will not be a long tenancy at a low rent for the purposes of the Leasehold Reform Act 1967 at any time when the interest of the landlord belongs to a registered housing association.
- (5) If, in any proceedings in which it falls to be determined whether a lease complies with the condition in subsection (3)(a) above, the question arises whether the consideration payable by the tenant on acquiring the freehold is reasonable, it is for the landlord to show that it is.
- (6) In this section " registered housing association " means an association registered under section 13 of the 1974 Act.

141 Amendments of Leasehold Reform Act 1967 etc.

Sections 1, 3, 9, 16, 23 and 29 of, and Schedules 1 and 3 to, the Leasehold Reform Act 1967 and Schedule 8 to the 1974 Act are amended as shown in Schedule 21 to this Act.

142 Leasehold valuation tribunals

- (1) Any matter which under section 21(1), (2) or (3) of the Leasehold Reform Act 1967 is to be determined by the Lands Tribunal shall instead be determined by a rent assessment committee constituted under Schedule 10 to the 1977 Act.
- (2) A rent assessment committee shall, when constituted to make any such determination, be known as a leasehold valuation tribunal.
- (3) Part I of Schedule 22 to this Act has effect with respect to leasehold valuation tribunals, and the 1967 Act is amended in accordance with Part II of that Schedule.

143 Apportionment of rents

- (1) Section 20(1) of the Landlord and Tenant Act 1927 (apportionment of certain rents and other payments) has effect as respects applications for apportionment made under that section after the passing of this Act with the substitution in the proviso of " £5 " for " two pounds ".
- (2) The Secretary of State may by order vary the amount there mentioned.
- (3) After section 20(1) of the said Act there is inserted the following subsection—

“(1A) An order of apportionment under sections 10 to 14 of the said Act of 1854 may provide for the amount apportioned to any part of the land in respect of which the rent or payment is payable to be nil.”.

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144 Landlord's failure to disclose identity or give notice of assignment: increased penalties

In relation to offences committed after the commencement of this section section 121(1) and (5) and section 122(5) of the 1974 Act shall have effect as if for " £200 " there were substituted " £500 ".

145 Houses in multiple occupation: revised penalties for certain offences

Schedule 23 to this Act shall have effect, in relation to offences committed after the commencement of this section, for the purpose of altering penalties for certain offences relating to houses in multiple occupation.

146 Houses in multiple occupation: overcrowding

- (1) For section 90 of the 1957 Act (overcrowding in houses let in lodgings) there is substituted the following section—

“90 Overcrowding in houses let in lodgings.

- (1) If it appears to a local authority, in the case of a house within their district which is occupied by persons who do not form a single household, that an excessive number of persons is being or is likely to be accommodated on the premises having regard to the rooms available, the local authority may serve on the occupier of the premises or on any person having the control and management thereof, or on both, a notice under this subsection (an " overcrowding notice ") complying with subsections (2) and (3) below and including either—
- (a) the requirement set out in subsection (4); or
 - (b) that set out in subsection (5).
- (2) An overcrowding notice shall state, in relation to every room on the premises, what is in the authority's opinion the maximum number of persons by whom it is suitable to be occupied as sleeping accommodation at any one time or, as the case may be, that it is in their opinion unsuitable to be occupied as sleeping accommodation.
- (3) An overcrowding notice may, in relation to any room, prescribe special maxima applicable in any case where some or all of the persons occupying the room are under such age as may be specified in the notice.
- (4) The requirement referred to in subsection (1)(a) is that the person on whom the overcrowding notice is served must refrain from—
- (a) knowingly permitting any room to be occupied as sleeping accommodation otherwise than in accordance with the overcrowding notice; or
 - (b) knowingly permitting such number of persons to occupy the premises as sleeping accommodation that it is not possible, without—
 - (i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice ; or
 - (ii) any part of the premises which is not a room being occupied as sleeping accommodation;

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to avoid persons of opposite sexes and over the age of 12 years (other than persons living together as husband and wife) occupying sleeping accommodation in the same room.

- (5) The requirement referred to in subsection (1)(b) is that the person on whom the overcrowding notice is served must refrain from—
- (a) knowingly permitting any room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the overcrowding notice ; or
 - (b) knowingly permitting a new resident to occupy any part of the premises as sleeping accommodation if it is not possible, without—
 - (i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice ; or
 - (ii) any part of the premises which is not a room being occupied as sleeping accommodation;both to permit the new resident to so occupy any part of the premises and avoid persons of opposite sexes and over the age of 12 years (other than persons living together as husband and wife) occupying sleeping accommodation in the same room.
- (6) In subsection (5) above " new resident" means a person who was not, immediately before the date on which the overcrowding notice was served, living in the house.
- (7) Where a local authority have served an overcrowding notice on any person and that notice includes the requirement referred to in subsection (5) above, the local authority may, at any time, withdraw that overcrowding notice and serve on that person, in its place, an overcrowding notice which includes the requirement referred to in subsection (4) above.
- (8) Not less than seven days before serving an overcrowding notice, the local authority shall—
- (a) in writing inform the occupier of the premises and any person appearing to them to have the control and management thereof of their intention to serve the notice, and
 - (b) ensure, so far as is reasonably possible, that every person living in the house is informed of that intention; and shall afford to any such person an opportunity of making representations regarding their proposal to serve the notice.
- (9) The local authority may from time to time serve on the occupier of premises in respect of which an overcrowding notice is in force, a notice requiring him to furnish them within 7 days with a statement in writing giving all or any of the following particulars, that is to say—
- (a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation ;
 - (b) the number of families or households to which those individuals belong ;
 - (c) the names of those individuals and of the heads of each of those families or households ; and

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- (d) the rooms used by those individuals and families or households respectively.
- (10) Any person aggrieved by an overcrowding notice may, within twenty-one days after the date of service of the notice, appeal to the county court and—
 - (a) on any such appeal the court may make such order confirming, quashing or varying the notice as it thinks fit; and
 - (b) sections 37 and 38 of this Act shall apply in relation to an appeal under this section as they apply in relation to an appeal to the county court under Part II of this Act.
- (11) A local authority may at any time, on the application of any person having an estate or interest in the house, revoke an overcrowding notice or vary it so as to allow more people to be accommodated in the house.
- (12) If a local authority refuse an application under subsection (11) above, or do not within 35 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the county court, and on the appeal the court shall have power to revoke the notice or vary it in any manner in which it might have been varied by the local authority.
- (13) Any person who contravenes an overcrowding notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- (14) Any person who knowingly fails to comply with the requirements of a notice under subsection (9) above, or furnishes a statement which he knows is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.”
- (2) Nothing in this section shall affect the < operation of the 1957 Act, as it had effect immediately before the commencement of this section, in relation to any notice served under section 90 before that date.

147 Houses in multiple occupation: means of escape from fire

- (1) Schedule 24 shall have effect in place of section 16 of the Housing Act 1961 and section 60 of the 1969 Act except in relation to notices served, undertakings accepted or orders made before the commencement of this section.
- (2) In relation to a breach after the commencement of this section of an undertaking accepted under section 60 of the 1969 Act subsection (3) of that section (fine on summary conviction) shall have effect as if for " £20 " there were substituted " £50 ".
- (3) The amendments and repeals made by this Act (except subsection (2) above) shall not affect the operation of any enactment in relation to any notice served, undertaking given or order made under the provisions replaced by this section.

148 Rent assessment panels: pensions for presidents and vicepresidents

In Schedule 10 to the 1977 Act (rent assessment committees) the following paragraph is inserted after paragraph 7—

- “7A The Secretary of State may, with the consent of the Minister for the Civil Service, provide for the payment of pensions, allowances or gratuities to

or in respect of any person nominated to act as president or vice-president of a panel.”.

149 Power of local authority to require repair of houses

In section 9 of the 1957 Act (power of local authority to require repair of unfit house) after subsection (1A) there are inserted the following subsections—

“(1B) Where a local authority, on a representation made by an occupying tenant, are satisfied that a house is in such a state of disrepair that, although it is not unfit for human habitation, the condition of the house is such as to interfere materially with the personal comfort of the occupying tenant, they may serve upon the person having control of the house such a notice as is mentioned in subsection (1A) above.

(1C) In subsection (1B) above, 'occupying tenant' has the same meaning, in relation to a dwelling which consists, or forms part, of the house concerned as it has in section 104 of the Housing Act 1974”.

Supplemental

150 Interpretation

In this Act—

" protected tenant " and " statutory tenant " have the same meanings as in the 1977 Act;

" secure tenant" means the tenant under a secure tenancy and " secure tenancy " has the meaning given by section 28;

" the 1957 Act" means the Housing Act 1957 ;

" the 1969 Act" means the Housing Act 1969 ;

" the 1972 Act" means the Housing Finance Act 1972;

" the 1974 Act" means the Housing Act 1974;

" the 1975 Act" means the Housing Rents and Subsidies Act 1975;

" the 1977 Act" means the Rent Act 1977.

151 Regulations and orders

- (1) Any power of the Secretary of State to make an order or regulations under this Act shall be exercisable by statutory instrument subject, except in the case of regulations under section 22(1), 33(2), 52(3), 56(7) or paragraph 11 of Schedule 3 or an order under section 52(4), 60 or 153 to annulment in pursuance of a resolution of either House of Parliament.
- (2) No order under section 52(4) or 60 shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House of Parliament.
- (3) Any order or regulation under this Act may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) This section does not apply to the power of the Secretary of State to make vesting orders under section 24.

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

152 Amendments, savings, transitional provisions and repeals

- (1) The enactments mentioned in Part I of Schedule 25 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The savings and transitional provisions in Part II of that Schedule shall have effect.
- (3) The enactments specified in the first column of Schedule 26 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

153 Commencement

- (1) Chapter I of Part I of this Act shall come into operation on the expiry of the period of eight weeks beginning with the day on which this Act is passed.
- (2) Chapter II of Part I shall come into operation on such day as the Secretary of State may by order appoint or, if no such order has been made, on the expiry of the period of eight weeks mentioned in subsection (1) above.
- (3) Sections 90 to 105, 108, 112, 113, 120, 122 to 127, 130, 131, 133 to 135, 137 to 140, 150, 151, 152(2) and 153 to 155 shall come into operation on the passing of this Act.
- (4) The remaining provisions of this Act shall come into operation on such day as the Secretary of State may by order appoint; and—
 - (a) different days may be appointed for different provisions ; and
 - (b) any provision may be brought into force on different days for England, Wales and Scotland.

154 Expenses and receipts

- (1) There shall be paid out of moneys provided by Parliament the administrative expenses of the Secretary of State under this Act and 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 section 102 or 131 shall be paid into the Consolidated Fund

155 Short title and extent

- (1) This Act may be cited as the Housing Act 1980.
- (2) Sections 114 to 116, 120 to 122(1), 123 to 133, 144, 151 to 153 of this Act, this section, Schedule 14, Part II of Schedule 16, paragraphs 1 to 3 of Schedule 17, Schedule 18, paragraphs 11 to 13, 24, 25 and 70 of Schedule 25 and the associated repeals in Schedule 26 extend to Scotland; but this Act does not otherwise so extend.
- (3) Sections 152(1), 153, this section and paragraphs 11, 12, 18 and 19 of Part I of Schedule 25 extend to Northern Ireland ; but this Act does not otherwise so extend.