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Housing Act 1985

1985 CHAPTER 68

PART II

PROVISION OF HOUSING ACCOMMODATION

Disposal of land held for housing purposes

32 Power to dispose of land held for purposes of this Part.

- (1) Without prejudice to the provisions of Part V (the right to buy) [^{F1}and Part IV of the Housing Act 1988 (change of landlord: secure tenants)], a local authority have power by this section, and not otherwise, to dispose of land held by them for the purposes of this Part.
- (2) A disposal under this section may be effected in any manner but, subject to subsection (3), shall not be made without the consent of the Secretary of State.
- (3) No consent is required for the letting of land under a secure tenancy or under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 (tenancies, other than long leases, which are not secure).
- (4) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, land is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.
- (5) Sections 128 to 132 of the ^{M1}Lands Clauses Consolidation Act 1845 (which require surplus land first to be offered to the original owner and to adjoining land-owners) do not apply to the sale by a local authority of land held by them for the purposes of this Part.

Textual Amendments

F1 Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 38](#)

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Modifications etc. (not altering text)

- C1** S. 32 extended (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para. 1(2)(a)** (with ss. 56(6), 94(2), 95); S.I. 1993/2134, **arts. 2, 5(a)**.
- C2** S. 32(2) excluded by Local Government Act 1988 (c. 9, SIF 81:1), **s. 26(5)(c)**
- C3** S. 32(4) applied by Housing Act 1988 (c. 50, SIF 61), **s. 133(4)**

Marginal Citations

- M1** 1845 c. 18.

33 Covenants and conditions which may be imposed.

- (1) On a disposal under section 32 the local authority may impose such covenants and conditions as they think fit.
- (2) But a condition of any of the following kinds may be imposed only with the consent of the Secretary of State—
 - (a) a condition limiting the price or premium which may be obtained on a further disposal of a house;
 - (b) in the case of a sale, a condition reserving a right of pre-emption;
 - (c) in the case of a lease, a condition precluding the lessee from assigning the lease or granting a sub-lease.
- (3) In subsection (2)(b) a condition reserving a right of pre-emption means a condition precluding the purchaser from selling or leasing the land unless—
 - (a) he first notifies the authority of the proposed sale or lease and offers to sell or lease the land to them, and
 - (b) the authority refuse the offer or fail to accept it within one month after it is made.
- (4) References in this section to the purchaser or lessee include references to his successors in title and any person deriving title under him or his successors in title.

34 Consents under ss. 32 and 33.

- (1) This section applies in relation to the giving of the Secretary of State's consent under section 32 or 33.
 - (2) Consent may be given—
 - (a) either generally to all local authorities or to a particular authority or description of authority;
 - (b) either in relation to particular land or in relation to land of a particular description.
 - (3) Consent may be given subject to conditions.
 - (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on the disposal including conditions as to the amount by which on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the local authority.
- [F²(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—

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

(4B)^{F3}]

Textual Amendments

F2 S. 34(4A)(4B) inserted (*retrospectively* 9.6.1988) by **Housing Act 1988 (c. 50, SIF 61), s. 132(1)(2)(8)**

F3 S. 34(4B) repealed by **Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(2), Sch. 12 Pt. I**

Modifications etc. (not altering text)

C4 S. 34(2)(b)(3) extended by **Housing Act 1988 (c. 50, SIF 61), s. 133(3)(a)**

C5 S. 34(4A) extended by **Housing Act 1988 (c. 50, SIF 61), s. 133(3)(a)**

C6 S. 34(4A) modified by **Housing Act 1988 (c. 50, SIF 61), s. 133(3)(c)**

VALID FROM 01/12/2008

[^{F4}34A Requirements to co-operate in relation to certain disposals

- (1) The appropriate person may make regulations for imposing requirements on a local housing authority in any case where a tenant group serves written notice on the authority proposing that the authority should dispose of particular land held by them for the purposes of this Part, or a particular description of such land, to a relevant housing provider.
- (2) The regulations may make provision requiring the authority—
 - (a) to provide, or finance the provision of, such office accommodation and facilities, and such training, as the tenant group reasonably requires for the purpose of pursuing the proposal;
 - (b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;
 - (c) to provide to the tenant group such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;
 - (d) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the tenant group in connection with the proposal;
 - (e) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined; and

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- (f) in such circumstances as may be prescribed by the regulations, to enter into an agreement for the disposal.
- (3) The regulations may make provision—
- (a) for determining the houses and other land to which the disposal should relate, and the amounts which should be paid in respect of the disposal;
 - (b) requiring the agreement for the disposal to be in such form as may be approved by the appropriate person and to contain such provisions as may be prescribed by the regulations.
- (4) The regulations may make such procedural, incidental, supplementary and transitional provisions as may appear to the appropriate person necessary or expedient, and may in particular make provision—
- (a) for particular questions arising under the regulations to be determined by the authority or the appropriate person;
 - (b) setting time-limits for the carrying out of requirements under the regulations;
 - (c) requiring any person exercising functions under the regulations to act in accordance with any guidance or directions given by the appropriate person.
- (5) Nothing in subsections (2) to (4) is to be taken as prejudicing the generality of subsection (1).
- (6) Any regulations which provide for the appropriate person to approve a proposal for a local housing authority to dispose of land must ensure that the authority has the opportunity to make representations to the appropriate person before the appropriate person decides whether or not to approve the proposal.
- (7) This section does not affect any requirement under section 32 or 33 for the consent of the Secretary of State or the Welsh Ministers.
- (8) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas; and
 - (b) are to be made by statutory instrument which—
 - (i) in the case of an instrument made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament; and
 - (ii) in the case of an instrument made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (9) In this section—
- “appropriate person” means—
- (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers;
- “relevant housing provider” means—
- (a) in relation to England, a registered provider of social housing; and
 - (b) in relation to Wales, a registered social landlord; and
- “tenant group” means a body or other person which satisfies such conditions as may be determined by or under the regulations.]

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Textual Amendments

- F4** S. 34A inserted (1.12.2008 for E. and otherwise prosp.) by [Housing and Regeneration Act 2008](#) (c. 17), [ss. 296, 325](#); [S.I. 2008/3068](#), arts. 1(2), [4\(1\)\(b\)](#) (with arts. 6-13)

35 Repayment of discount on early disposal.

- (1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.
- (2) On the disposal the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to pay to the authority on demand, if within a period of [^{F5}three years] there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount, reduced by [^{F5}one-third] for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.

Textual Amendments

- F5** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 61), [s. 2\(3\)](#)

VALID FROM 18/01/2005

[^{F6}35A Increase in value of house attributable to home improvements

- (1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
 - (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance, grant or assignment and before the disposal,shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
 - (a) it is reasonably practicable for him to do so; and
 - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.]

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Textual Amendments

F6 S. 35A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 196, 270(3)(a)

36 Liability to repay is a charge on the premises.

- (1) The liability that may arise under the covenant required by section 35 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- [^{F7}(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount—
- (a) left outstanding by the purchaser, or
 - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal.
- (2A) The following, namely—
- (a) any advance which is made otherwise than for the purpose mentioned in subsection (2)(b) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
 - (b) any further advance which is so secured,
- shall rank in priority to that charge if, and only if, the local authority by written notice served on the institution concerned gives their consent; and the local authority shall so give their consent if the purpose of the advance or further advance is an approved purpose.
- (2B) The local authority may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—
- (a) is made to the purchaser by that institution, and
 - (b) is secured by a legal charge not having priority to that charge;
- and the local authority shall serve such a notice if the purpose of the advance or further advance is an approved purpose.]
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the ^{M2}Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- [^{F8}(3A) The covenant required by section 35 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with the covenant.]
- (4) The approved lending institutions for the purposes of this section are—
- a building society,
 - a bank,
 - a trustee savings bank,

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an insurance company,
a friendly society,

and any body specified, or of a class or description specified, in an order made under section 156 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section.

- [^{F9}(5) The approved purposes for the purposes of this section are—
- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
 - (i) the cost of any works to the house,
 - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
 - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and
 - (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—
 - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
 - (ii) any arrears of interest on such an advance or further advance, and
 - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.
- (6) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.]

Textual Amendments

- F7** S. 36(2),(2A),(2B) substituted (11.10.1993) for s. 36(2) by 1993 c. 28, s. 133(1); S.I. 1993/2134, arts. 2, 4(b) (with Sch. 1 para. 7).
- F8** S. 36(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1)(a), Sch. 5 Pt. I para. 1(1)(5)
- F9** S. 36(5)(6) inserted (11.10.1993) by 1993 c. 28, s. 133(2); S.I. 1993/2134, arts. 2, 4(b) (with Sch. 1 para. 7).

Marginal Citations

- M2** 1925 c. 21.

VALID FROM 18/01/2005

[^{F10}36A Right of first refusal for local authority

- (1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.

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- (2) On the disposal the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (4) In subsection (3) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
 - (a) a local authority which have made a disposal as mentioned in subsection (1), or
 - (b) such other person as is determined in accordance with the regulations,
 a right of first refusal to have a disposal within subsection (6) made to them or him for such consideration as is mentioned in section 36B.
- (6) The disposals within this subsection are—
 - (a) a reconveyance or conveyance of the house; and
 - (b) a surrender or assignment of the lease.
- (7) Regulations under this section may, in particular, make provision—
 - (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
 - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
 - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
 - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
 - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
 - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
 - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
 - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (8) In subsection (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that subsection affects the generality of subsection (5).

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- (9) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The limitation imposed by a covenant within subsection (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

Textual Amendments

F10 Ss. 36A, 36B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 197(1)(5), 270(3)(a)**

VALID FROM 18/01/2005

36B Consideration payable for disposal under section 36A

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 36A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 35 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under section 36A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
- (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 36A).]

Textual Amendments

F10 Ss. 36A, 36B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 197(1)(5), 270(3)(a)**

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37 Restriction on disposal of dwelling-houses in National Parks, etc.

(1) Where a conveyance, grant or assignment executed under section 32 is of a house situated in—

- (a) a National Park.
- (b) 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
- (c) an area designated as a rural area by order under section 157 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section),

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) (right of pre-emption or restriction on assignment)) contain a covenant limiting the freedom of the purchaser (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the house in the manner specified 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 a successor in title of his

- [^{F11}(a) , there will be no relevant disposal which is not an exempted disposal without the written consent of the authority; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3)] [^{F12}and
- (b) there will be no disposal by way of tenancy or licence without the written consent of the authority unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the house].

(3) 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 [^{F13}or, in the case of a disposal by way of tenancy or licence, preceding the disposal]—

- (a) had his place of work in a region designated by order under section 157(3) 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 period.

(4) A disposal in breach of such a covenant as is mentioned in subsection (1) is void [^{F14}and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the local authority as if—

- (a) the authority were possessed of land adjacent to the house concerned; and
- (b) the covenant were expressed to be made for the benefit of such adjacent land].

[^{F15}(4A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.]

(5) The limitation imposed by such a covenant is a local land charge and, if the land is registered under the ^{M4}Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefore had been made under section 58 of that Act.

(6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.

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Textual Amendments

- F11** “(a)” inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(2\)\(6\)](#)
F12 Word “and” and s. 37(2)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(2\)\(6\)](#)
F13 Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(3\)\(6\)](#)
F14 Words and s. 37(4)(a)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(4\)\(6\)](#)
F15 [S. 37\(4A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(5\)\(6\)](#)

Marginal Citations

- M3** 1949 c. 97.
M4 1925 c. 21.

38 Relevant disposals.

- (1) A disposal, whether of the whole or part of the house, is a relevant disposal for the purposes of this Part if it is—
- a conveyance of the freehold or an assignment of the lease, or
 - the grant of a lease of sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
 - that any option to terminate a lease or sub-lease is not exercised.

39 Exempted disposals.

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
 - it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
 - it is a disposal of the whole of the house in pursuance of an order made under section 24 of the ^{M5}Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the ^{M6}Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
 - it is a compulsory disposal; or
 - the property disposed of is property included with the house by virtue of the definition of “house” in section 56 (yard, garden, outhouses, &c.).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- he is the person or one of the persons by whom the disposal is made,
 - he is the spouse or a former spouse of that person or one of those persons, or
 - he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.

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Marginal Citations

M5 1973 c. 18.

M6 1975 c. 63.

VALID FROM 18/01/2005

[^{F16}39A Treatment of deferred resale agreements for purposes of section 35

- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 35 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
 - (a) the time when the agreement is entered into, or
 - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—
 - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 32,
 - (b) which is made before the end of the discount repayment period, and
 - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
 - (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
 - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
 - (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
 - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
 - (a) may make different provision with respect to different cases or descriptions of case; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—

“agreement” includes arrangement;

“the discount repayment period” means the period of 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3)(depending on whether an offer such as is

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mentioned in section 195(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).]

Textual Amendments

F16 S. 39A inserted (18.1.2005) by Housing Act 2004 (c. 34), ss. 198(1)(2), 270(3)

40 Meaning of “compulsory disposal”.

In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

41 Exempted disposals which end liability under covenants.

Where there is a relevant disposal which is an exempted disposal by virtue of section 39(1)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.)—

- (a) the covenant required by section 35 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 36 (liability to repay a charge on the premises) cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 37 (restriction on disposal of houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

42 Treatment of options.

- (1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 37(2) (requirement of consent to disposal of house in National Park etc.) a consent to such a grant shall be treated as a consent to a disposal made in pursuance of the option.

43 Consent required for certain disposals not within s. 32.

- (1) The consent of the Secretary of State is required for the disposal by a local authority, otherwise than in pursuance of Part V (the right to buy) [^{F17}or Part IV of the Housing Act 1988 (change of landlord: secure tenants)], of a house belonging to the authority—
 - (a) which is let on a secure tenancy, or
 - (b) of which a lease has been granted in pursuance of Part V,but which has not been acquired or appropriated by the authority for the purposes of this Part.
- (2) Consent may be given—
 - (a) either generally to all local authorities or to any particular local authority or description of authority, and

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- (b) either generally in relation to all houses or in relation to any particular house or description of house.
- (3) Consent may be given subject to conditions.
- (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on a disposal of the house, including conditions as to the amount by which, on a disposal of the 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.
- [^{F18}(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—
- (a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as “the intending purchaser”) is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
 - (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
 - (c) the terms of the proposed disposal; and
 - (d) any other matters whatsoever which he considers relevant.
- (4B)^{F19}]
- (5) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, a house to which this section applies is a disposal and a consent given under this section to such a disposal extends to a disposal made in pursuance of the option.
- [^{F20}(5A) References in this section and in section 44 to a local authority shall include references to a National Park authority.]

Textual Amendments

- F17** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 39**
- F18** [S. 43\(4A\)\(4B\)](#) inserted (*retrospectively* 9.6.1988) by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 132(1)(2)(8)**
- F19** [S. 43\(4B\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(2), **Sch. 12 Pt. I**
- F20** [S. 43\(5A\)](#) inserted (23.11.1995) by [1995 c. 25, s. 78](#), **Sch. 10 para. 24(1)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); [S.I. 1995/2950](#), **art. 2(1)**

Modifications etc. (not altering text)

- C7** [Ss. 43, 44, 45](#) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22 and 23** as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**
- C8** [S. 43](#) extended (1.11.1993) by [1993 c. 28, s. 37](#), **Sch. 10 para. 1(2)(a)** (with ss. 56(6), 94(2), 95); [S.I. 1993/2134](#), **arts. 2, 5(a)**.
[Ss. 43, 44](#) extended (5.7.1994) by [1994 c. 19, s. 39](#), **Sch. 13 para. 21(a)** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C9** [Ss. 43, 44](#) modified (1.4.1995) by [S.I. 1995/401](#), **art. 18**, **Sch. para. 8(a)**
- C10** [S. 43\(1\)](#) excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), **s. 26(5)(c)**
- C11** [S. 43\(2\)\(b\)\(3\)](#) extended by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s.133(3)(b)**

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- C12 S. 43(4A) extended by [Housing Act 1988 \(c. 50, SIF 81:1\)](#), s. 133(3)(b)
- C13 S. 43(4A) modified by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 133(c)
- C14 S. 43(5) applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 133(4)

44 Avoidance of certain disposals of houses without consent.

- (1) A disposal of a house by a local authority made without the consent required by section 32 or 43 is void, unless—
 - (a) the disposal is to an individual (or to two or more individuals), and
 - (b) the disposal does not extend to any other house.
- (2) Subsection (1) has effect notwithstanding section 29 of the ^{M7}Town and Country Planning Act 1959 and section 128(2) of the ^{M8}Local Government Act 1972 (protection of purchasers dealing with authority).
- (3) In this section “house” does not have the extended meaning applicable by virtue of the definition of “housing accommodation” in section 56, but includes a flat.

Modifications etc. (not altering text)

- C15 Ss. 43, 44, 45 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 61](#)
- C16 Ss. 43, 44 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), [Sch. 13 para. 21\(a\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C17 Ss. 43, 44 modified (1.4.1995) by S.I. 1995/401, art. 18, [Sch. para. 8\(a\)](#)

Marginal Citations

- M7 1959 c. 53.
- M8 1972 c. 70.

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