



Housing and Planning Act 1986

1986 CHAPTER 63

PART I

HOUSING

The right to buy

5 Loans in respect of service charges

In Part XIV of the Housing Act 1985 (loans for acquisition or improvement of housing), after section 450 insert—

“Loans in respect of service charges

450A Right to a loan in certain cases after exercise of right to buy.

- (1) The Secretary of State may by regulations provide that where—
 - (a) a lease of a flat has been granted in pursuance of Part V (the right to buy), and
 - (b) the landlord is the housing authority who granted the lease or another housing authority,the tenant has, in such circumstances as may be prescribed, a right to a loan in respect of service charges to which this section applies.
- (2) This section applies to service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land) which are payable in the period beginning with the grant of the lease and ending with the tenth anniversary of the grant or, where the lease provides for service charges to be payable by reference to a specified annual period, with the end of the tenth such period beginning after the grant of the lease.
- (3) The regulations may provide that the right—

Status: This is the original version (as it was originally enacted).

- (a) arises only in respect of so much of a service charge as exceeds a minimum qualifying amount and does not exceed a maximum qualifying amount, and
- (b) does not arise unless the amount thus qualifying for a loan itself exceeds a minimum amount,

the amounts being either prescribed or ascertained in a prescribed manner.

- (4) The regulations shall provide that the right is—
 - (a) where the landlord is a housing association, a right to an advance from the Housing Corporation, and
 - (b) in any other case, a right to leave the whole or part of the service charge outstanding.
- (5) The regulations may, as regards the procedure for exercising the right, provide—
 - (a) that a demand for service charges in respect of repairs shall inform the tenant whether, in the landlord's opinion, he is entitled to a loan and, if he is, what he must do to claim it;
 - (b) that the right must be claimed within a prescribed period of the demand ; and
 - (c) that on the right being claimed the lender shall inform the tenant of the terms of the loan and of the prescribed period within which the tenant may accept the offer.
- (6) In this section—
 - " housing authority " includes any housing association within section 80 (the landlord condition for secure tenancies); and
 - " repairs " includes works for making good a structural defect.

450B Power to make loans in other cases.

- (1) The Secretary of State may by regulations provide that where—
 - (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority, and
 - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land),
 the landlord or, where the landlord is a housing association, the Housing Corporation may, in such circumstances as may be prescribed, make a loan to the tenant in respect of the service charges.
- (2) The regulations shall provide that the power is—
 - (a) where the landlord is a housing association, a power of the Housing Corporation to make an advance, and
 - (b) in any other case, a power of the landlord to leave the whole or part of the service charge outstanding.
- (3) Where the tenant is entitled to a loan in pursuance of regulations under section 450A, the power conferred by regulations under this section may be exercised in respect of any part of the service charge which does not qualify for a loan under that section.

- (4) In this section—
 "housing authority" includes any housing association within section 80 (the landlord condition for secure tenancies); and
 "repairs" includes works for making good a structural defect.
- (5) This section does not affect any other power of the landlord, or the Housing Corporation, to make loans.

450C Supplementary provisions as to regulations under s. 450A or 450B.

- (1) This section applies to regulations under section 450A or 450B (regulations conferring right to loan, or power to make loan, in respect of service charges).
- (2) The regulations may provide that the right or, as the case may be, the power does not arise in the case of any prescribed description of landlord.
- (3) The regulations shall provide that the loan—
 (a) in the case of a loan made in pursuance of regulations under section 450A (the right to a loan), shall be on such terms as may be prescribed, and
 (b) in the case of a loan made by virtue of regulations under section 450B (power to make loan), shall be on such terms as the lender may determine subject to any provision made by the regulations ;
and shall, in either case, be secured by a mortgage of the flat in question, but may be made whether or not the flat is adequate security for the loan.
- (4) The regulations may—
 (a) as regards the rate of interest payable on the loan, either prescribe the rate or provide that the rate shall be such reasonable rate as may be determined by the lender or, where the lender is a local authority, provide that Schedule 16 applies (local authority mortgage interest rates);
 (b) as regards administrative expenses of the lender in connection with a loan, provide that the lender may charge such expenses to the borrower, to the extent that they do not exceed such amount as may be prescribed, and that the expenses so charged may, at the option of the borrower in the case of a loan under section 450A and at the option of the lender in the case of a loan under section 450B, be added to the amount of the loan.
- (5) The regulations may apply whenever the lease in question was granted or assigned and whenever the service charge in question became payable.
- (6) The regulations—
 (a) may make different provision for different cases or descriptions of case, including different provision for different areas ;
 (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate ; and
 (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.