



# Housing Act 1988

## 1988 CHAPTER 50

### PART IV **E+W**

#### CHANGE OF LANDLORD: SECURE TENANTS

##### **Modifications etc. (not altering text)**

- C1** Pt. IV (ss. 93-114) modified (11.10.1993) by 1993 c. 28, s. 124(4); S.I. 1993/2134, arts. 2,4 (with savings in Sch. 1 para. 5)

#### *Preliminary*

### **93 Right conferred by Part IV. **E+W****

- (1) This Part has effect for the purpose of conferring on any person who has been approved under section 94 below the right to acquire from a public sector landlord, subject to and in accordance with the provisions of this Part—
- the fee simple estate in any buildings each of which comprises or contains one or more dwelling-houses which on the relevant date are occupied by qualifying tenants of the public sector landlord; and
  - the fee simple estate in any other property which is reasonably required for occupation with buildings falling within paragraph (a) above.
- (2) The following are public sector landlords for the purposes of this Part, namely—
- a local housing authority within the meaning of section 1 of the Housing Act 1985 (in this Part referred to as “the 1985 Act”);
  - a new town corporation within the meaning of section 4(b) of that Act;
  - a housing action trust within the meaning of Part III of this Act; and
  - the Development Board for Rural Wales.
- (3) Subject to subsection (4) below, a secure tenant of a public sector landlord is a qualifying tenant for the purposes of this Part if (and only if) his secure tenancy is

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held directly from the landlord as owner of the fee simple estate and, in relation to any acquisition or proposed acquisition under this Part, any reference in the following provisions of this Part to qualifying tenant is a reference only to a qualifying tenant of the public sector landlord from whom the acquisition is or is proposed to be made.

- (4) A secure tenant is not a qualifying tenant for the purposes of this Part if—
- (a) he is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in such an order; or
  - (b) the circumstances are as set out in any of paragraphs 5 to 11 of Schedule 5 to the 1985 Act (exceptions to right to buy).
- (5) In this Part “the relevant date”, in relation to an acquisition or proposed acquisition under this Part, means the date on which is made the application under section 96 below claiming to exercise the right conferred by this Part.

#### 94 **Persons by whom right may be exercised.** E+W

- (1) The right conferred by this Part shall not be exercisable except by a person who is for the time being approved by the Corporation under this section; and neither a public sector landlord nor the council of a county nor any other body which the Corporation have reason to believe might not be independent of such a landlord or council may be approved under this section.
- (2) For the purposes of subsection (1) above, a body shall not be regarded as independent of a public sector landlord or the council of a county if the body is or appears likely to be under the control of, or subject to influence from, such a landlord or council or particular members or officers of such a landlord or council.
- (3) The Corporation shall establish (and may from time to time vary) criteria to be satisfied by a person seeking approval under this section and, without prejudice to subsections (1) and (2) above, in deciding whether to give such approval, the Corporation shall have regard to whether the person satisfies those criteria.
- (4) Subject to any directions under section 76 of the <sup>M1</sup>Housing Associations Act 1985 (directions by the Secretary of State), an approval under this section—
  - (a) shall not be given except to a person making an application accompanied by such fee as the Corporation, with the consent of the Secretary of State, may specify; and
  - (b) may be given to a particular person or to persons of a particular description; and
  - (c) may apply either in relation to acquisitions generally or in relation to a particular acquisition or acquisitions or in relation to acquisitions made in a particular area or within a particular period; and
  - (d) may be made conditional upon the person or persons concerned entering into such undertakings as may be specified by the Corporation;
 and different fees may be specified under paragraph (a) above for different descriptions of cases.
- (5) Subject to any directions under section 76 of the Housing Associations Act 1985, if it appears to the Corporation appropriate to do so (whether by reason of a failure to honour an undertaking or to meet any criteria or for any other reason), the Corporation may revoke an approval given under this section by notice in writing served on the approved person; and where such a notice of revocation is served—

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- (a) the revocation shall be provisional until the expiry of such period, being not less than 14 days, as may be specified in the notice;
  - (b) if the Corporation withdraws the notice at any time during the specified period, the approval shall be treated as never having been revoked; and
  - (c) subject to paragraph (b) above, after the date of service of the notice, the person concerned may not take any steps in connection with a claim to exercise the right conferred by this Part;
- but the service of a notice under this subsection shall not affect any transaction completed before the service of the notice.
- (6) In the case of a body which has been approved under this section which does not have a registered office (at which documents can be served) and which appears to the Corporation to have ceased to exist or not to operate, notice under subsection (5) above shall be deemed to be served on the body if it is served at the address last known to the Corporation to be the principal place of business of the body.
- (7) The Housing Corporation and Housing for Wales shall each maintain a register of persons for the time being approved by it under this section, specifying the extent of the approval given in each case; and each register so maintained shall be open to inspection at the head office of the Corporation by which it is maintained at all reasonable times.

#### Marginal Citations

M1 1985 c. 69.

## 95 Property excluded from right. **E+W**

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

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- (4) A dwelling-house shall be excluded from an acquisition under this Part if it is a house and it is occupied on the relevant date by—
  - (a) a secure tenant who is precluded from being a qualifying tenant by section 93(4)(b) above; or
  - (b) a tenant who is not a secure tenant.
- (5) A building or other property shall be excluded from an acquisition under this Part if—
  - (a) it was specified in some other application made under section 96 below made before the relevant date; and
  - (b) that other application has not been disposed of.
- (6) Except to the extent that it comprises or is let together with a dwelling-house, property shall be excluded from an acquisition under this Part if it is land held—
  - (a) for the purposes of section 164 of the <sup>M2</sup>Public Health Act 1875 (pleasure grounds); or
  - (b) in accordance with section 10 of the <sup>M3</sup>Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds).
- (7) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (1)(b) above such other percentage as is specified in the order.

**Marginal Citations**

**M2** 1875 c. 55.  
**M3** 1906 c. 25.

*Initial procedures*

**96 Application to exercise right. E+W**

- (1) An application claiming to exercise the right conferred by this Part—
  - (a) shall be made in the prescribed form to the public sector landlord concerned; and
  - (b) shall specify and be accompanied by a plan which shows—
    - (i) the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above; and
    - (ii) the property proposed to be acquired by virtue of paragraph (b) of that subsection.
- (2) Where an application claiming to exercise the right conferred by this Part specifies, as a building proposed to be acquired by virtue of section 93(1)(a) above, a building containing a dwelling-house which is subject to an approved co-operative management agreement, the application—
  - (a) shall specify all the buildings which contain dwelling-houses subject to the agreement and in which the public sector landlord has the fee simple estate; and
  - (b) shall not specify (by virtue of paragraph (a) or paragraph (b) of subsection (1) of section 93 above) any building which contains dwelling-houses if none of them is subject to the agreement.

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- (3) For the purposes of subsection (2) above, an approved co-operative management agreement is an agreement—
- (a) which is made with the approval of the Secretary of State under section 27 of the <sup>M4</sup>Housing Act 1985, either as originally enacted or as substituted by section 10 of the <sup>M5</sup>Housing and Planning Act 1986; and
  - (b) under which the body exercising functions of the local housing authority is a society, company or body of trustees approved by the Secretary of State for the purposes of subsection (2) above.

**Marginal Citations**

- M4** 1985 c. 68.  
**M5** 1986 c. 63.

**97 Information etc. for applicant. E+W**

- (1) Within four weeks of the relevant date, the landlord shall serve on the applicant a notice specifying—
- (a) the name and address of every tenant or licensee of a dwelling-house which the buildings proposed to be acquired by virtue of section 93(1)(a) above comprise or contain; and
  - (b) the general nature of his tenancy or licence.
- (2) As from four weeks after that date, the applicant shall have the following rights, namely—
- (a) a right of access, at any reasonable time and on giving reasonable notice, to any property proposed to be acquired which is not subject to a tenancy;
  - (b) a right, on giving reasonable notice, to be provided with a list of any documents to which subsection (3) below applies;
  - (c) a right to inspect, at any reasonable time and on giving reasonable notice, any documents to which that subsection applies; and
  - (d) a right, on payment of a reasonable fee, to be provided with a copy of any documents inspected under paragraph (c) above.
- (3) This subsection applies to any document in the possession of the landlord—
- (a) sight of which is reasonably required for the purpose of pursuing the application; and
  - (b) which, on a proposed sale by a willing vendor to a willing purchaser of the property proposed to be acquired, the landlord, as vendor, would be expected to make available to the purchaser (whether at or before contract or completion).
- (4) In this section “document” has the same meaning as in Part I of the <sup>M6</sup>Civil Evidence Act 1968.

**Marginal Citations**

- M6** 1968 c. 64.

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## 98 **Determination of property to be included.** E+W

- (1) Within twelve weeks of the relevant date, the landlord shall serve on the applicant a notice stating—
  - (a) which (if any) of the buildings proposed to be acquired by virtue of paragraph (a) of subsection (1) of section 93 above should be excluded from the acquisition on the ground that they do not comprise or contain one or more dwelling-houses which on the relevant date were occupied by qualifying tenants;
  - (b) which (if any) property proposed to be acquired by virtue of paragraph (b) of that subsection should be excluded from the acquisition on the ground that it is not reasonably required for occupation with any of the buildings proposed to be acquired by virtue of paragraph (a) of that subsection or that it is reasonably required for occupation with such of those buildings as should be excluded from the acquisition on the ground mentioned in paragraph (a) above;
  - (c) which (if any) property proposed to be acquired by virtue of either paragraph of that subsection should be excluded from the acquisition on the ground that its inclusion is precluded by section 95 above or that it is reasonably required for occupation with property the inclusion of which is so precluded or that it is a building which is excluded from the acquisition by virtue of section 96(2)(b) above;
  - (d) which property (if any) the landlord desires to have included in the acquisition on the ground that it cannot otherwise be reasonably managed or maintained;
  - (e) which rights (if any) the landlord desires to retain over property included in the acquisition on the ground that they are necessary for the proper management or maintenance of land to be retained by the landlord;
  - (f) the other proposed terms of the conveyance; and
  - (g) such other particulars as may be prescribed.
- (2) A building which is excluded from an acquisition by virtue of section 95 or section 96(2)(b) above may not be included by virtue of subsection (1)(d) above.
- (3) Where a notice under subsection (1) above specifies property falling within paragraph (d) of that subsection, the applicant shall have a right of access, at any reasonable time and on giving reasonable notice, to any of that property which is not subject to a tenancy.
- (4) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.
- (5) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined—
  - (a) by a person agreed to by the parties or, in default of agreement, appointed by the Secretary of State; and
  - (b) in accordance with such provisions (including provisions as to costs) as may be prescribed.
- (6) In relation to a proposed acquisition under this Part, any reference in the following provisions of this Part to the property to which the acquisition relates is a reference to the whole of the property which, in accordance with the provisions of this section, is to be acquired, disregarding the effect of any exclusion by virtue of regulations under section 100 below.



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## 99 Determination of purchase price. **E+W**

- (1) Within eight weeks of—
  - (a) if there is no dispute as to any of the matters stated in the notice under section 98(1) above, the service of that notice, or
  - (b) if there is such a dispute, the determination of the dispute,  
the landlord shall serve on the applicant a notice specifying—
    - (i) the price which, disregarding sections 100(3) and 103(1) below, it considers should be payable for the property to be acquired or, as the case may be, the disposal cost which, disregarding section 100(3) below, is attributable to the property to be acquired by virtue of subsection (3) below; and
    - (ii) if the property to which the acquisition relates includes dwelling-houses which are houses as well as other property, an amount which the landlord considers to be the amount attributable to houses as defined in section 100(4)(b) below.
- (2) Subject to sections 100(3) and 103(1) below, the price payable for the property to be acquired shall be the price which on the relevant date the property to which the acquisition relates would realise if sold on the open market by a willing vendor on the following assumptions, namely—
  - (a) that it was sold subject to any tenancies subsisting on that date but otherwise with vacant possession;
  - (b) that it was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of the right of acquisition;
  - (c) that the only bidders in the market were persons who on that date either were approved under section 94 above or fulfilled the criteria for approval established under subsection (3) of that section;
  - (d) that the applicant would, within a reasonable period, carry out such works as are reasonably necessary to put the buildings included in the acquisition into the state of repair required by the landlord's repairing obligations; and
  - (e) that the applicant would not be required to grant any leases in pursuance of regulations made under section 100 below.
- (3) Subject to section 100(3) below, there is a disposal cost attributable to the property to be acquired if, having regard to the expense likely to be incurred in carrying out the works referred to in paragraph (d) of subsection (2) above, the property to which the acquisition relates would not realise any price in the circumstances specified in that subsection; and that disposal cost is the amount by which the expense likely to be so incurred exceeds what would be determined under that subsection as the price if those works had already been carried out.
- (4) The notice under subsection (1) above shall contain sufficient information to enable the applicant to see how the price or, as the case may be, disposal cost and any amount referred to in sub-paragraphs (i) and (ii) of subsection (1) above were arrived at and, if the property to which the acquisition relates consists of or includes any dwelling-houses which are houses, the notice shall also contain a list of the addresses of the houses together with the number of habitable rooms in each of them.
- (5) Within four weeks of service of the notice under subsection (1) above, the applicant shall notify the landlord in writing of any matters stated in that notice which he does not accept.

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- (6) Any dispute as to any matters stated in a notice under subsection (1) above shall be determined by the district valuer, in accordance with such provisions (including provisions as to costs) as may be prescribed.
- [<sup>F1</sup>(7) In a notice under subsection (1) above or by a separate notice given to the applicant not later than seven days after the date of a determination under subsection (6) above, the landlord may notify the applicant that if there is a disposal cost which is such that, in accordance with regulations under section 104(2A) below, it may be paid by instalments, the landlord intends to pay that cost by instalments.
- (8) Where the landlord notifies the applicant as mentioned in subsection (7) above, he shall furnish to the applicant, in such form and certified in such manner as may be prescribed, such information as may be prescribed in order to enable the applicant to consider the application of the regulations to the disposal cost and to assess the likely effect of the payment by instalments.]

**Textual Amendments**

**F1** S. 99(7)(8) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), 174(2)

*Special cases*

**100 Tenants continuing as tenants of landlord. E+W**

- (1) The Secretary of State shall make regulations imposing the following requirements in relation to any acquisition under this Part, namely—
- (a) that any dwelling-house which is a house and is occupied by a tenant to whom subsection (2) below applies shall be excluded from the acquisition; and
  - (b) that a lease of any dwelling-house which is a flat and is occupied by a tenant to whom subsection (2) below applies or by a tenant of a description prescribed for the purposes of this paragraph shall be granted by the applicant to the landlord immediately after the acquisition.
- (2) This subsection applies—
- (a) to any qualifying tenant whose tenancy commenced before the relevant date, and
  - (b) to any tenant of a description prescribed for the purposes of this subsection, being, in either case, a tenant who, before the end of the period mentioned in section 102 below and in response to the consultation under that section, gives notice as mentioned in section 103(2) below of his wish to continue as a tenant of the landlord.
- (3) If, by virtue of regulations under this section, any houses fall to be excluded from the acquisition—
- (a) there shall be determined the sum (in this subsection referred to as “the sum referable to excluded houses”) which represents that proportion of the amount attributable to houses which the number of habitable rooms in the houses which fall to be so excluded bears to the number of habitable rooms in all of the houses comprised in the property to which the acquisition relates; and
  - (b) if the amount attributable to houses is a price, the sum referable to excluded houses shall be applied as a deduction from any price payable for the property



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- to be acquired, as determined under section 99 above, and as an increase in any disposal cost attributable to that property; and
- (c) if the amount attributable to houses is a disposal cost, the sum referable to excluded houses shall be applied as an increase in any price payable for the property to be acquired, as determined under section 99 above, and as a deduction from any disposal cost attributable to that property.
- (4) In section 99(1)(ii) and subsection (3) above, “the amount attributable to houses”, in relation to an acquisition under this Part, means,—
- (a) if the property to which the acquisition relates consists of dwelling-houses which are houses and no other property, the price or, as the case may be, disposal cost specified in accordance with section 99(1)(i) above; and
- (b) in any other case, the price or disposal cost which, under subsection (2) or subsection (3) of section 99 above, would be payable for, or attributable to, the property to which the acquisition relates if there were excluded from that property all property other than dwelling-houses which are houses.

#### **101 Tenancies granted after relevant date. E+W**

- (1) Subject to subsection (4)(a) below, this section applies to any tenancy of or licence to occupy any part of the property proposed to be acquired, being a tenancy or licence commencing,—
- (a) in the case of property falling within paragraph (d) of subsection (1) of section 98 above, after the date of the notice under that subsection;
- (b) in any other case, after the relevant date.
- (2) Notwithstanding anything in any enactment, a tenancy or licence to which this section applies—
- (a) shall not be a secure tenancy, and
- (b) shall not be capable of becoming an assured tenancy or an assured agricultural occupancy,
- and neither Part II of the <sup>M7</sup>Landlord and Tenant Act 1954 (business tenancies) nor Parts III to VI of the <sup>M8</sup>Agricultural Holdings Act 1986 (tenancies of agricultural holdings, including market gardens and smallholdings) [<sup>F2</sup>nor the Agricultural Tenancies Act 1995 (farm business tenancies)] shall apply to a tenancy or licence to which this section applies.
- (3) Every tenancy or licence to which this section applies shall be determinable by the landlord or licensor by giving not less than four weeks notice to quit expiring at any time during the tenancy; and this subsection has effect whether or not the tenancy or licence is periodic and, if it is periodic, regardless of the length of the period.
- (4) The Secretary of State may make regulations—
- (a) excluding from the tenancies and licences to which this section applies a tenancy or licence of a description specified in the regulations;
- (b) requiring the public sector landlord to give notice to the applicant of the grant of any tenancy or licence to which this section applies;
- (c) requiring the public sector landlord to give notice of the effect of this section to any tenant or licensee under a tenancy or licence to which this section applies;
- (d) for securing that, on the transfer of the property included in the acquisition to the applicant, the public sector landlord gives vacant possession of any property subject to a tenancy or licence to which this section applies;

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- (e) that, in so far as vacant possession is not so given, any costs or expenses attributable to the recovery of vacant possession by the applicant and any losses consequent upon the failure of the public sector landlord to give vacant possession are recoverable by the applicant from that landlord as a simple contract debt; and
- (f) making provision for and in connection with the disapplication of this section in any case where the applicant does not proceed with the acquisition.

#### Textual Amendments

**F2** Words in s. 101(2) inserted (1.9.1995) by 1995 c. 8, ss. 40(1), 41(2), **Sch. para. 33** (with s. 37)

#### Marginal Citations

**M7** 1954 c. 56.

**M8** 1986 c. 75.

### *Final procedures*

#### **102 Consultations by applicant. E+W**

- (1) During such period as may be prescribed beginning with,—
  - (a) if there is a determination by the district valuer under section 99 above, notification to the applicant of that determination,
  - (b) if there is no such determination, service of the landlord’s notice under that section,

the applicant shall consult, in accordance with such provisions as may be prescribed, tenants to whom this section applies.
- (2) This section applies—
  - (a) to any qualifying tenant, or tenant under a long tenancy, who on the relevant date occupied a dwelling-house proposed to be included in the acquisition and continued to occupy the dwelling during the period referred to in subsection (1) above; and
  - (b) to any tenant of a description prescribed for the purposes of section 100(2) above; and
  - (c) to any tenant of a description prescribed for the purposes of this section.

#### **103 Notice by applicant of intention to proceed. E+W**

- (1) Subject to subsection (2) below, the applicant may, within two weeks of the end of the period mentioned in section 102 above, serve on the landlord notice of his intention to proceed with the acquisition; and in that notice the applicant, in such circumstances as may be prescribed, may inform the landlord—
  - (a) that he wishes to enter into a prescribed covenant to make payments to the landlord on the occasion of any prescribed disposal (occurring after the date of the acquisition) of a dwelling-house comprised in the property to be acquired; and
  - (b) that he requires the value of that covenant to be taken into account in reducing the price which would otherwise be payable for the property to be acquired.

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- (2) The applicant shall not be entitled to serve a notice under subsection (1) above if, in response to the consultation under section 102 above,—
  - (a) less than 50 per cent. of the tenants to whom that section applies have given notice of their wishes in such manner as may be prescribed; or
  - (b) the number of tenants to whom that section applies who have given notice in that manner of their wish to continue as tenants of the landlord exceeds 50 per cent. of the total number of tenants to whom that section applies.
- (3) In any case where a tenancy is held by two or more persons jointly, those persons shall be regarded as a single tenant for the purposes of subsection (2) above and, accordingly, any notice given in response to the consultation under section 102 above shall be of no effect for the purposes of subsection (2) above unless it is given by or on behalf of all the joint tenants.
- (4) A notice under subsection (1) above shall contain—
  - (a) a list of the names and addresses of tenants to whom section 102 above applies (if any) who have given notice as mentioned in subsection (2)(b) above;
  - (b) a list of the houses (if any) which are, by virtue of regulations under section 100 above, to be excluded from the acquisition;
  - (c) a list of flats (if any) of which the applicant is required, by virtue of such regulations, to grant leases to the landlord and a statement of the proposed terms of those leases;
  - (d) such information as may be necessary to show how the lists mentioned in paragraphs (a), (b) and (c) above were established; . . . <sup>F3</sup>
  - (e) the price payable for the property to be acquired (disregarding any reduction by virtue of such a covenant as is referred to in subsection (1) above) or, as the case may be, the disposal cost attributable to that property [<sup>F4</sup>and
  - (f) if there is a disposal cost attributable to that property and the landlord has notified the applicant as mentioned in section 99(7) above of his intention to pay the disposal cost by instalments, either a statement of the basis on which, in accordance with regulations under section 104(2A) below, the disposal cost is to be paid by instalments or a statement that the disposal cost is not such that those regulations permit it to be paid by instalments].
- (5) Within two weeks of service of the notice under subsection (1) above, the landlord shall notify the applicant in writing of any matters stated in that notice which it does not accept.
- (6) Where a notice has been served under subsection (1) above, every tenant to whom section 102 above applies and who has not given notice as mentioned in subsection (2) (b) above shall be taken to have accepted, and to have given consideration for, any offer which—
  - (a) relates to the terms on which, after the acquisition, he is to occupy the dwelling-house occupied by him on the relevant date;
  - (b) was made to him by the applicant either in the course of the consultation required by subsection (1) of section 102 above or otherwise before the end of the period referred to in that subsection; and
  - (c) was neither withdrawn by the applicant nor rejected by the tenant before the end of that period.
- (7) Regulations prescribing any of the matters referred to in subsection (1) above shall also make provision with respect to the determination of the amounts which are to

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be payable on the occasion of prescribed disposals; and the amount of any reduction in the price payable for the property to be acquired which is attributable to such a covenant as is referred to in that subsection shall be determined by the district valuer.

#### Textual Amendments

- F3** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 174(3), 194(4), [Sch. 12 Pt. II](#)
- F4** Word and s. 103(4)(f) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 174\(3\)](#)

### 104 Duty to complete and consequences of completion. **E+W**

- (1) Where the applicant has served on the landlord a notice under section 103(1) above, then, as soon as any dispute as to any matters stated in that notice has been determined and, where appropriate, any determination has been made under section 103(7) above—
- (a) the landlord shall make to the applicant a grant of the property included in the acquisition for an estate in fee simple absolute, but subject to any rights to be retained by the landlord; and
  - (b) the applicant shall grant to the landlord leases of any flats of which he is required to grant leases by regulations under section 100 above.
- (2) The terms of any grant or lease under subsection (1) above shall comply with such requirements as may be prescribed.
- [<sup>F5</sup>(2A) In such cases as may be prescribed and where the applicant has been notified as mentioned in section 99(7) above, a disposal cost may be paid by instalments of such amounts (which may include interest) and payable at such times and over such period as may be prescribed.]
- (3) The duties imposed by the preceding provisions of this section are enforceable by injunction.
- (4) Notwithstanding anything in section 141 of the <sup>M9</sup>Law of Property Act 1925 (rent and benefit of lessee's covenants to run with the reversion) any rent or other sum which—
- (a) arises under a tenancy of any property included in the acquisition, and
  - (b) falls due before the date of the grant under subsection (1) above,
- shall continue to be recoverable by the landlord to the exclusion of the applicant and of any other person in whom the reversion on the tenancy may become vested.
- (5) Without prejudice to the application of [<sup>F6</sup>Part IV of the Local Government and Housing Act 1989 (revenue accounts and capital finance of local authorities)] to the price received by the landlord on the disposal (as mentioned in subsection (1) (a) above) of the property included in the acquisition, where there is a disposal cost attributable to that property any payments made by the landlord in respect of that cost shall be [<sup>F6</sup>expenditure for capital purposes] for the purposes of that Part.

#### Textual Amendments

- F5** [S. 104\(2A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 174\(4\)](#)
- F6** Words substituted by [S.I. 1990/778](#), art. 2, [Sch. para. 2](#)

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#### Marginal Citations

M9 1925 c. 20.

#### *Subsequent disposals*

### 105 Consent required for subsequent disposals. **E+W**

- (1) A person who acquires any property under this Part (in this section referred to as “the new landlord”) shall not dispose of it except with the consent of the Secretary of State; but nothing in this subsection shall apply in relation to an exempt disposal, as defined in subsection (7) below.
- (2) Where an estate or interest in property acquired by the new landlord has been mortgaged or charged, the prohibition in subsection (1) above on disposal of the property without consent applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the new landlord.
- (3) In any case where—
  - (a) by operation of law or by virtue of an order of a court property which has been acquired by the new landlord passes or is transferred to another person, and
  - (b) that passing or transfer does not constitute a disposal for which consent is required under subsection (1) above,this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the property passes or is transferred were the new landlord.
- (4) Any consent for the purposes of subsection (1) above may be given either unconditionally or subject to conditions; but, before giving any such consent, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of the whole or any part of the property proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation[<sup>F7</sup>and, without prejudice to the generality of the conditions subject to which consent may be given, a condition may be imposed requiring a payment by the new landlord either to the public sector landlord from whom he or, where subsection (3) above applies, a predecessor of his acquired the property or to such other person as may be specified in the consent].
- (5) If, apart from subsection (6) below, the consent of the Housing Corporation or Housing for Wales would be required under section 9 of the <sup>M10</sup>Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal to which subsection (1) above applies, the Secretary of State shall consult that body before giving his consent in respect of that disposal for the purposes of that subsection.
- (6) No consent shall be required under the said section 9 for any disposal in respect of which consent is given in accordance with subsection (5) above.
- (7) In this section an “exempt disposal” means—
  - (a) the grant of a lease pursuant to such a requirement as is referred to in section 100(1)(b) above;

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- (b) the disposal of a dwelling-house to a person [<sup>F8</sup>exercising the right to buy it under Part V of the 1985 Act];
  - (c) a compulsory disposal, within the meaning of Part V of the 1985 Act;
  - (d) the disposal of an easement or rentcharge;
  - (e) the disposal of an interest by way of security for a loan;
  - (f) the grant of a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the 1985 Act;
  - (g) the grant of an assured tenancy, within the meaning of Part I of this Act, or what would be such a tenancy but for any of paragraphs 4 to 8 of Schedule 1 to this Act; and
  - (h) the transfer of an interest which is held on trust where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee.
- (8) In this section references to disposing of property include references to—
- (a) granting or disposing of any interest in property;
  - (b) entering into a contract to dispose of property or to grant or dispose of any such interest; and
  - (c) granting an option to acquire property or any such interest.

#### Textual Amendments

- F7** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 107(a)**
- F8** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 107(b)**

#### Modifications etc. (not altering text)

- C2** [S. 105\(2\)](#) excluded (1.11.1993) by [1993 c. 28, ss. 37, 56\(6\)](#), **Sch. 10**, para. 1(2)(d); [S.I. 1993/2134, arts. 2, 5](#).

#### Marginal Citations

- M10** [1985 c. 69](#).

### *Supplemental*

#### **106 Service of information, advice and assistance. E+W**

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



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**107 Power of Corporation to provide legal assistance to tenants in relation to acquisitions. E+W**

- (1) On an application by the tenant of a dwelling-house who is a party or a prospective party to proceedings or prospective proceedings falling within subsection (2) below, the Corporation may give assistance to the tenant if it thinks fit to do so—
- (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the tenant to deal with it without assistance; or
  - (c) by reason of any other special consideration.
- (2) The proceedings referred to in subsection (1) above are—
- (a) proceedings to determine any question arising in relation to an acquisition or proposed acquisition under this Part; and
  - (b) proceedings to determine any dispute arising after an acquisition under this Part between a transferred tenant of a dwelling-house included in the acquisition and the body by which the acquisition was made;
- and for the purposes of paragraph (b) above a tenant of a dwelling-house is a transferred tenant of it if he was the qualifying tenant of it at the time of the acquisition or is the widow or widower of the person who was then the qualifying tenant of it.
- (3) Assistance given by the Corporation under this section may include—
- (a) giving advice;
  - (b) procuring or attempting to procure the settlement of the matter in dispute;
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel;
  - (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
  - (e) any other form of assistance which the Corporation may consider appropriate; but paragraph (d) above does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (4) In so far as expenses are incurred by the Corporation in providing the tenant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Corporation—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the tenant by any other person in respect of the matter in connection with which the assistance was given; and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;
- but subject to any charge under the <sup>M11</sup>Legal Aid Act 1988 and to any provision of that Act for payment of any sum to the Legal Aid Board.

**Modifications etc. (not altering text)**

C3 S. 107(3)(c)(d) amended by S.I. 1991/2684, arts. 2(1), 4, Sch.1

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#### Marginal Citations

**M11** 1988 c. 34.

### 108 Registration of title and related matters. **E+W**

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

### 109 Public open space etc. **E+W**

- (1) To the extent that any land held—
- (a) for the purposes of section 164 of the <sup>M12</sup>Public Health Act 1875 (pleasure grounds), or
  - (b) in accordance with section 10 of the <sup>M13</sup>Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- is included in an acquisition under this Part, it shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with that section.
- (2) Nothing in section 5 of the <sup>M14</sup>Green Belt (London and Home Counties) Act 1938 (restrictions on alienation of land by local authorities) applies in relation to a disposal of land included in an acquisition under this Part.

#### Marginal Citations

**M12** 1875 c. 55.

**M13** 1906 c. 25.

**M14** 1938 c. xciii.

### 110 Extension etc. of relevant periods. **E+W**

- (1) In this section “relevant period” means any period within which anything is required by this Part to be done by either of the parties, that is to say, the applicant and the landlord.
- (2) At any time before the end of any relevant period, or any such period as previously extended under this subsection, the other party may, by a written notice served on the party to whom the requirement relates, extend or further extend that period.
- (3) Where a notice of revocation of the applicant’s approval is served under subsection (5) of section 94 above and subsequently withdrawn as mentioned in paragraph (b) of that subsection, any relevant period which, apart from this subsection, would have expired before the withdrawal shall be taken to be extended by a period equal to that beginning with the date of the service of the notice of revocation and ending on the date of the withdrawal.
- (4) Where—
  - (a) the applicant is the party to whom the requirement relates, and

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- (b) the relevant period, or that period as extended under subsection (2) above, expires without his doing what he is required by this Part to do within that period,

his application claiming to exercise the right conferred by this Part shall be deemed to be withdrawn, but without prejudice to his making a further such application.

#### **111 Power to prescribe forms etc. E+W**

The Secretary of State may by regulations prescribe—

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

#### **112 Orders and regulations. E+W**

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

#### **113 Jurisdiction of county court. E+W**

- (1) Subject to sections 98(5) and 99(6) above, a county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part; and
  - (b) to determine any question arising under this Part.
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1) above notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes in the High Court proceedings which, by virtue of this section, he could have taken in the county court, he shall not be entitled to recover any more costs of those proceedings than those to which he would have been entitled if the proceedings had been taken in a county court.
- (4) In a case falling within subsection (3) above the taxing master shall have the same power of directing on what scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the proceedings had been taken in a county court.

#### **114 Interpretation of Part IV. E+W**

- (1) In this Part—
  - “the <sup>M15</sup> 1985 Act” means the Housing Act 1985;
  - “the Corporation” means the Housing Corporation or Housing for Walesbut—

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

- (2) Subject to subsection (1) above, in this Part expressions which are also used in Part V of the 1985 Act have the same meaning as in that Part.

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**Marginal Citations**

**M15** [1985 c.68.](#)

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