



# Housing Act 1996

## 1996 CHAPTER 52

### PART I

#### SOCIAL RENTED SECTOR

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

C1 Part I (ss. 1-64) amended (1.10.1996) by [S.I. 1996/2325](#), [art.3](#)

### CHAPTER I

#### REGISTERED SOCIAL LANDLORDS

#### *Registration*

#### 1 The register of social landlords.

(1) The [<sup>F1</sup>Relevant Authority] shall maintain a register of social landlords which shall be open to inspection at all reasonable times <sup>F2</sup>. . . .

[<sup>F3</sup>(1A) In this Part “the Relevant Authority” means the Housing Corporation or the Secretary of State, as provided by section 56.

(1B) The register maintained by the Housing Corporation shall be maintained at its head office.]

<sup>F4</sup>(2) . . . . .

#### Textual Amendments

F1 Words in Pt. 1 substituted (1.11.1998) by [1998 c. 38](#), s. 140, [Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), [art.5](#).

*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Housing Act 1996 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F2** Words in s. 1(1) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 83(2), **Sch. 18 Pt.VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F3** S. 1(1A)(1B) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 83(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F4** S. 1(2) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 83(4), **Sch. 18 Pt.VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

- C2** S. 1 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

**2 Eligibility for registration.**

- (1) A body is eligible for registration as a social landlord if it is—
- (a) a registered charity which is a housing association,
  - (b) a society registered under the <sup>M1</sup>Industrial and Provident Societies Act 1965 which satisfies the conditions in subsection (2), or
  - (c) a company registered under the <sup>M2</sup>Companies Act 1985 which satisfies those conditions.
- (2) The conditions are that the body is non-profit-making and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of—
- (a) houses to be kept available for letting,
  - (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
  - (c) hostels,
- and that any additional purposes or objects are among those specified in subsection (4).
- (3) For the purposes of this section a body is non-profit-making if—
- (a) it does not trade for profit, or
  - (b) its constitution or rules prohibit the issue of capital with interest or dividend exceeding the rate prescribed by the Treasury for the purposes of section 1(1) (b) of the <sup>M3</sup>Housing Associations Act 1985.
- (4) The permissible additional purposes or objects are—
- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for its residents, either exclusively or together with other persons;
  - (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, on lease or on shared ownership terms;
  - (c) constructing houses to be disposed of on shared ownership terms;
  - (d) managing houses held on leases or other lettings (not being houses within subsection (2)(a) or (b)) or blocks of flats;
  - (e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;
  - (f) encouraging and giving advice on the forming of housing associations or providing services for, and giving advice on the running of, such

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associations and other voluntary organisations concerned with housing, or matters connected with housing.

(5) A body is not ineligible for registration as a social landlord by reason only that its powers include power—

- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within subsection (2) or (4);
- (b) to repair, improve or convert commercial premises acquired as mentioned in paragraph (a) or to carry on for a limited period any business so acquired;
- (c) to repair or improve houses, or buildings in which houses are situated, after a disposal of the houses by the body by way of sale or lease or on shared ownership terms.

(6) In this section—

“block of flats” means a building containing two or more flats which are held on leases or other lettings and which are occupied or intended to be occupied wholly or mainly for residential purposes;

“disposed of on shared ownership terms” means disposed of on a lease—

- (a) granted on a payment of a premium calculated by reference to a percentage of the value of the house or of the cost of providing it, or
- (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference directly or indirectly to the value of the house;

“letting” includes the grant of a licence to occupy;

“residents”, in relation to a body, means persons occupying a house or hostel provided or managed by the body; and

“voluntary organisation” means an organisation whose activities are not carried on for profit.

(7) The Secretary of State may by order specify permissible purposes, objects or powers additional to those specified in subsections (4) and (5).

The order may (without prejudice to the inclusion of other incidental or supplementary provisions) contain such provision as the Secretary of State thinks fit with respect to the priority of mortgages entered into in pursuance of any additional purposes, objects or powers.

(8) An order under subsection (7) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

- C3** S. 2(4) extended (19.4.1999) by 1999/985, art.2  
S. 2(4) extended (1.7.1999) by [S.I. 1999/1206](#), **art. 2(1)**

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**Commencement Information**

- II** S. 2 wholly in force 1.10.1996; s. 2 not in force at Royal Assent see s. 232(1)-(3); s. 2(7)(8) in force at 1.8.1996 by 1996/2048, art. 2(1) and s. 2 in force at 1.10.1996 to the extent not already in force by [S.I. 1996/2402](#), **art. 3** (subject to the transitional provisions and savings in the Sch. to that S.I.)

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#### Marginal Citations

- M1** 1965 c. 12.  
**M2** 1985 c. 6.  
**M3** 1985 c. 69.

### 3 Registration.

- (1) The [<sup>F5</sup>Relevant Authority] may register as a social landlord any body which is eligible for such registration.
- (2) An application for registration shall be made in such manner, and shall be accompanied by such fee (if any), as the [<sup>F5</sup>Relevant Authority] may determine.
- (3) As soon as may be after registering a body as a social landlord the [<sup>F5</sup>Relevant Authority] shall give notice of the registration—
  - (a) in the case of a registered charity, to the Charity Commissioners,
  - (b) in the case of an industrial and provident society, to the [<sup>F6</sup>Financial Services Authority], and
  - (c) in the case of a company registered under the <sup>M4</sup>Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies,  
 who shall record the registration.
- (4) A body which at any time is, or was, registered as a social landlord shall, for all purposes other than rectification of the register, be conclusively presumed to be, or to have been, at that time a body eligible for registration as a social landlord.

#### Textual Amendments

- F5** Words in Pt. 1 substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.  
**F6** Words in s. 3(3)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 351**

#### Commencement Information

- I2** S. 3 wholly in force 1.10.1996; s. 3 not in force at Royal Assent see s. 232(1)-(3); s. 3(2) in force for certain purposes at 1.8.1996 by S.I. 1996/2048, **art. 3** and s. 3 in force at 1.10.1996 to the extent it is not already in force by S.I. 1996/2402, **art. 3** (subject to the transitional provisions and savings in the Sch. to that S.I.)

#### Marginal Citations

- M4** 1985 c. 6.

### 4 Removal from the register.

- (1) A body which has been registered as a social landlord shall not be removed from the register except in accordance with this section.
- (2) If it appears to the [<sup>F7</sup>Relevant Authority] that a body which is on the register of social landlords—
  - (a) is no longer a body eligible for such registration, or
  - (b) has ceased to exist or does not operate,

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the [F7Relevant Authority] shall, after giving the body at least 14 days' notice, remove it from the register.

- (3) In the case of a body which appears to the [F7Relevant Authority] to have ceased to exist or not to operate, notice under subsection (2) shall be deemed to be given to the body if it is served at the address last known to the [F7Relevant Authority] to be the principal place of business of the body.
- (4) A body which is registered as a social landlord may request the [F7Relevant Authority] to remove it from the register and the [F7Relevant Authority] may do so, subject to the following provisions.
- (5) Before removing a body from the register of social landlords under subsection (4) the [F7Relevant Authority] shall consult the local authorities in whose area the body operates; and the [F7Relevant Authority] shall also inform those authorities of its decision.
- (6) As soon as may be after removing a body from the register of social landlords the [F7Relevant Authority] shall give notice of the removal—
  - (a) in the case of a registered charity, to the Charity Commissioners,
  - (b) in the case of an industrial and provident society, to the [F8Financial Services Authority], and
  - (c) in the case of a company registered under the M5Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies,who shall record the removal.

#### Textual Amendments

**F7** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.

**F8** Words in s. 4(6)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 352**

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

**C4** S. 4 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

#### Marginal Citations

**M5** 1985 c. 6.

## 5 Criteria for registration or removal from register.

- (1) The [F9Relevant Authority] shall establish (and may from time to time vary) criteria which should be satisfied by a body seeking registration as a social landlord; and in deciding whether to register a body the [F9Relevant Authority] shall have regard to whether those criteria are met.
- (2) The [F9Relevant Authority] shall establish (and may from time to time vary) criteria which should be satisfied where such a body seeks to be removed from the register of social landlords; and in deciding whether to remove a body from the register the [F9Relevant Authority] shall have regard to whether those criteria are met.

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- (3) Before establishing or varying any such criteria the [<sup>F9</sup>Relevant Authority] shall consult such bodies representative of registered social landlords, and such bodies representative of local authorities, as it thinks fit.
- (4) The [<sup>F9</sup>Relevant Authority] shall publish the criteria for registration and the criteria for removal from the register in such manner as the [<sup>F9</sup>Relevant Authority] considers appropriate for bringing the criteria to the notice of bodies representative of registered social landlords and bodies representative of local authorities.

#### Textual Amendments

**F9** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

## 6 Appeal against decision on removal.

- (1) A body which is aggrieved by a decision of the [<sup>F10</sup>Relevant Authority]—
  - (a) not to register it as a social landlord, or
  - (b) to remove or not to remove it from the register of social landlords,
 may appeal against the decision to the High Court.
- (2) If an appeal is brought against a decision relating to the removal of a body from the register, the [<sup>F10</sup>Relevant Authority] shall not remove the body from the register until the appeal has been finally determined or is withdrawn.
- (3) As soon as may be after an appeal is brought against a decision relating to the removal of a body from the register, the [<sup>F10</sup>Relevant Authority] shall give notice of the appeal—
  - (a) in the case of a registered charity, to the Charity Commissioners,
  - (b) in the case of an industrial and provident society, to the [<sup>F11</sup>Financial Services Authority], and
  - (c) in the case of a company registered under the <sup>M6</sup>Companies Act 1985 (including such a company which is also a registered charity), to the registrar of companies.

#### Textual Amendments

**F10** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.

**F11** Words in s. 6(3)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 353**

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

**C5** S. 6 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

S. 6 restricted (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 3**

#### Marginal Citations

**M6** 1985 c. 6.

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### *Regulation of registered social landlords*

## **7 Regulation of registered social landlords.**

Schedule 1 has effect for the regulation of registered social landlords.

Part I relates to the control of payments to members and similar matters.

Part II relates to the constitution, change of rules, amalgamation or dissolution of a registered social landlord.

Part III relates to accounts and audit.

Part IV relates to inquiries into the affairs of a registered social landlord.

#### **Commencement Information**

- I3** S. 7 wholly in force 1.10.1996; s. 7 not in force at Royal Assent see s. 232(1)-(3); s. 7 in force for certain purposes at 1.8.1996 by [S.I. 1996/2048](#), [arts. 2, 3](#); s. 7 in force at 1.10.1996 to the extent it is not already in force by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the Sch. to that S.I.)

## **CHAPTER II**

### **DISPOSAL OF LAND AND RELATED MATTERS**

#### *Power of registered social landlord to dispose of land*

## **8 Power of registered social landlord to dispose of land.**

- (1) A registered social landlord has power by virtue of this section and not otherwise to dispose, in such manner as it thinks fit, of land held by it.
- (2) Section 39 of the <sup>M7</sup>Settled Land Act 1925 (disposal of land by trustees) does not apply to the disposal of land by a registered social landlord; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.

Nothing in this subsection shall be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.

- (3) This section has effect subject to section 9 (control by [<sup>F12</sup>Relevant Authority] of land transactions).

#### **Textual Amendments**

- F12** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, [Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), [art.5](#).

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

- C6** S. 8 extended (16.9.1996) by [S.I. 1996/2402](#), [art. 3](#), [Sch. para. 1](#)

#### **Marginal Citations**

- M7** 1925 c. 18.

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### Control by <sup>F13</sup>Relevant Authority] of land transactions

#### Textual Amendments

**F13** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

## 9 Consent required for disposal of land by registered social landlord.

(1) The consent of the <sup>F14</sup>Relevant Authority]. . ., is required for any disposal of land by a registered social landlord under section 8.

<sup>F15</sup>(1A) The consent—

- (a) if given by the Housing Corporation, shall be given by order under its seal, and
- (b) if given by the Secretary of State, shall be given by order in writing.]

(2) The consent of the <sup>F14</sup>Relevant Authority] may be so given—

- (a) generally to all registered social landlords or to a particular landlord or description of landlords;
- (b) in relation to particular land or in relation to a particular description of land, and may be given subject to conditions.

(3) Before giving any consent other than a consent in relation to a particular landlord or particular land, the <sup>F14</sup>Relevant Authority] shall consult such bodies representative of registered social landlords as it thinks fit.

(4) A disposal of a house by a registered social landlord made without the consent required by this section is void unless—

- (a) the disposal is to an individual (or to two or more individuals),
- (b) the disposal does not extend to any other house, and
- (c) the landlord reasonably believes that the individual or individuals intend to use the house as their principal dwelling.

(5) Any other disposal by a registered social landlord which requires consent under this section is valid in favour of a person claiming under the landlord notwithstanding that that consent has not been given; and a person dealing with a registered social landlord, or with a person claiming under such a landlord, shall not be concerned to see or inquire whether any such consent has been given.

(6) Where at the time of its removal from the register of social landlords a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered social landlord.

(7) For the purposes of this section “disposal” means sale, lease, mortgage, charge or any other disposition.

(8) This section has effect subject to section 10 (lettings and other disposals not requiring consent of <sup>F14</sup>Relevant Authority]).

#### Textual Amendments

**F14** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.



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**F15** S. 9(1A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 84(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C7** S. 9(6) extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 6**

**Commencement Information**

**I4** S. 9 wholly in force 1.10.1996; s. 9 not in force at Royal Assent see s. 232(1)-(3); s. 9(3) in force at 1.8.1996 by S.I. 1996/2048, **art. 2**, and s. 9 in force at 1.10.1996 to the extent it is not already in force by S.I. 1996/2402, **art. 3** (subject to the transitional provisions and savings in the Sch. to that S.I.)

**10 Lettings and other disposals not requiring consent of [<sup>F16</sup>Relevant Authority].**

- (1) A letting by a registered social landlord does not require consent under section 9 if it is—
- (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), of Schedule 1 to the <sup>M8</sup>Housing Act 1988, or
  - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the <sup>M9</sup>Housing Act 1985.
- (2) Consent under section 9 is not required in the case of a disposal to which section 81 or 133 of the Housing Act 1988 applies (certain disposals for which the consent of the Secretary of State is required).
- (3) Consent under section 9 is not required for a disposal under Part V of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 below (the right to acquire).

**Textual Amendments**

**F16** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C8** S. 10 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

**Marginal Citations**

**M8** 1988 c. 50.

**M9** 1985 c. 68.

**[<sup>F17</sup>11 Covenant for repayment of discount on disposal**

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.

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- (2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.
- (3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord.
- (5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (6) Subsections (3) to (5) are subject to section 11A.

#### Textual Amendments

**F17** Ss. 11-11B substituted for s. 11 (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(1), 270(3)(a)** (with s. 199(3))

### **11A Increase in value of house attributable to home improvements to be disregarded**

- (1) In calculating the maximum amount which may be demanded by the landlord under section 11, 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.]

#### Textual Amendments

**F17** Ss. 11-11B substituted for s. 11 (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(1), 270(3)(a)** (with s. 199(3))

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## 12 Priority of charge for repayment of discount.

- (1) The charge taking effect by virtue of [F18 section 11B ] (charge for repayment of discount) 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,
- subject to the following provisions.

- (2) An advance which is made for a purpose other than that mentioned in subsection (1) (b) and which is secured by a legal charge having priority to the charge taking effect by virtue of [F18 section 11B ], and any further advance which is so secured, shall rank in priority to that charge if, and only if, the registered social landlord by notice served on the institution concerned gives consent.

The landlord shall give consent if the purpose of the advance or further advance is an approved purpose.

- (3) The registered social landlord may at any time by notice served on an approved lending institution postpone the charge taking effect by virtue of [F18 section 11B ] to an 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 landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

- (4) The covenant required by [F18 section 11B ] 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 that section, or a person deriving title under him.

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 that covenant.

- (5) In this section “approved lending institution” means—

- (a) a building society, bank, insurance company or friendly society,
- (b) the [F19Relevant Authority], or
- (c) any body specified, or of a class or description specified, in an order made under section 156 of the M10Housing Act 1985 (which makes corresponding provision in relation to disposals in pursuance of the right to buy).

- (6) The following are “approved purposes” for the purposes of this section—

- (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—

*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Housing Act 1996 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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 [F18 section 11B ] ,
- (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.

In this subsection “service charge” has the meaning given by section 621A of the Housing Act 1985.

- (7) 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

**F18** Words in s. 12 substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(2)**, 270(3)(a) (with s. 199(3))

**F19** Words in Pt. I substituted (1.11.1998) by [1998 c. 38](#), s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art.5**.

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

**C9** S. 12 extended (16.9.1996) by [S.I. 1996/2402](#), **art. 3**, **Sch. paras. 1, 11**

#### Marginal Citations

**M10** [1985 c. 68](#).

### [F20] 12A Right of first refusal for registered social landlord

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (2) 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.
- (3) In subsection (2) “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.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  - (a) a registered social landlord which has 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 (5) made to him for such consideration as is mentioned in section 12B.

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- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (6) 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.
- (7) In subsection (6) 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 (4).
- (8) 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.
- (9) The limitation imposed by a covenant within subsection (2) is a local land charge.
- (10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.
- (11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
- (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant ceases to apply in relation to the property disposed of.

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#### Textual Amendments

**F20** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by *Housing Act 2004 (c. 34)*, **ss. 200(1)**, 270(2)(b), (3)(a) (with s. 200(3))

### 12B Consideration payable for disposal under section 12A

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(4) 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 11 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under section 12A, 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 12A).]

#### Textual Amendments

**F20** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by *Housing Act 2004 (c. 34)*, **ss. 200(1)**, 270(2)(b), (3)(a) (with s. 200(3))

### 13 Restriction on disposal of houses in National Parks, &c.

- (1) On the disposal by a registered social landlord, in accordance with a consent given by the [<sup>F21</sup>Relevant Authority] under section 9, of a house situated in—
  - (a) a National Park,
  - (b) an area designated under [<sup>F22</sup>section 82 of the Countryside and Rights of Way Act 2000] as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 of the <sup>M11</sup>Housing Act 1985,

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) of the Housing Act 1985 (right of pre-emption or restriction on assignment) [<sup>F23</sup> or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord) ] ) contain a covenant to the following effect limiting the freedom of the purchaser (including any successor in title

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of his and any person deriving title under him or such a successor) to dispose of the house.

- (2) The limitation is that until such time (if any) as may be notified in writing by the registered social landlord to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord.
- (3) That consent shall not be withheld if 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—
  - (a) had his place of work in a region designated by order under section 157(3) of the Housing Act 1985 which, or part of which, is comprised in the National Park or area concerned, or
  - (b) had his only or principal home in such a region,or if he has had the one in part or parts of that period and the other in the remainder.

The region need not have been the same throughout the period.
- (4) A disposal in breach of such a covenant as is mentioned above is void.
- (5) The limitation imposed by such a covenant is a local land charge and, [<sup>F24</sup>if the first disposal involves registration under the Land Registration Act 2002, the Chief Land Registrar shall enter in the register of title a restriction reflecting the limitation].
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.
- (7) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.), any such covenant as is mentioned in this section ceases to apply in relation to the property disposed of.

#### Textual Amendments

- F21** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F22** Words in s. 13(1)(b) substituted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 C. 37, s. 93, Sch. 15 Pt. I para. 14; S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F23** Words in s. 13(1) inserted (18.1.2005) by Housing Act 2004 (c. 34), **ss. 200(2), 270(3)(a)** (with s. 200(3))
- F24** Words in s. 13(5) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 35** (with s. 129); S.I. 2003/1725, art. 2(1)

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

- C10** S. 13 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, 11

#### Marginal Citations

- M11** 1985 c. 68.

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#### 14 Treatment of options.

- (1) For the purposes of sections 9 to 13 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 13(2) (requirement of consent to disposal of house in National Park, &c.) consent to such a grant shall be treated as consent to a disposal made in pursuance of the option.

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

C11 S. 14 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch.paras. 1, 11

#### 15 Relevant and exempted disposals.

- (1) In sections 11 to 14 the expression “relevant disposal which is not an exempted disposal” shall be construed as follows.
- (2) A disposal, whether of the whole or part of the house, is a relevant disposal if it is—
  - (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack-rent.
- (3) For the purposes of subsection (2)(b) it shall be assumed—
  - (a) 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
  - (b) that any option to terminate a lease or sub-lease is not exercised.
- (4) A disposal is an exempted disposal if—
  - (a) 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 (5));
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (6);
  - (d) it is a compulsory disposal (as defined in subsection (7));
  - (e) the property disposed of is a yard, garden, outhouses or appurtenances belonging to a house or usually enjoyed with it.
- (5) For the purposes of subsection (4)(a) a person is a qualifying person in relation to a disposal if—
  - (a) he is the person or one of the persons by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person or one of those persons, or
  - (c) 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.
- (6) The orders referred to in subsection (4)(c) are orders under—



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- (a) section 24 or 24A of the <sup>M12</sup>Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings);
  - (b) section 2 of the <sup>M13</sup>Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
  - (c) section 17 of the <sup>M14</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.); or
  - (d) paragraph 1 of Schedule 1 to the <sup>M15</sup>Children Act 1989 (orders for financial relief against parents).
- (7) For the purposes of subsection (4)(d) a compulsory disposal is 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.

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

**C12** S. 15 extended (16.9.1996) by [S.I. 1996/2402](#), [art. 3](#), Sch. paras. 1, 11

**Marginal Citations**

**M12** 1973 c. 18.

**M13** 1975 c. 63.

**M14** 1984 c. 42.

**M15** 1989 c. 41.

[<sup>F25</sup>**15A Treatment of deferred resale agreements for purposes of section 11**

- (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 11 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, by virtue of section 8,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal which is not 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

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- (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 three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section).]

#### **Textual Amendments**

**F25** S. 15A inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by [Housing Act 2004 \(c. 34\)](#), **ss. 201(1)**, 270(2)(b), (3)(a) (with s. 201(2))

### *Right of tenant to acquire dwelling*

#### **16 Right of tenant to acquire dwelling.**

- (1) A tenant of a registered social landlord has the right to acquire the dwelling of which he is a tenant if—
  - (a) he is a tenant under an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or under a secure tenancy,
  - (b) the dwelling was provided with public money and has remained in the social rented sector, and
  - (c) he satisfies any further qualifying conditions applicable under Part V of the <sup>M16</sup>Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.
- (2) For this purpose a dwelling shall be regarded as provided with public money if—
  - (a) it was provided or acquired wholly or in part by means of a grant under section 18 (social housing grant),
  - (b) it was provided or acquired wholly or in part by applying or appropriating sums standing in the disposal proceeds fund of a registered social landlord (see section 25), or
  - (c) it was acquired by a registered social landlord after the commencement of this paragraph on a disposal by a public sector landlord at a time when it was capable of being let as a separate dwelling.

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- (3) A dwelling shall be regarded for the purposes of this section as having remained within the social rented sector if, since it was so provided or acquired—
- (a) the person holding the freehold interest in the dwelling has been either a registered social landlord or a public sector landlord; and
  - (b) any person holding an interest as lessee (otherwise than as mortgagee) in the dwelling has been—
    - (i) an individual holding otherwise than under a long tenancy; or
    - (ii) a registered social landlord or a public sector landlord.
- [<sup>F26</sup>(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement).]
- (4) A dwelling shall be regarded for the purposes of this section as provided by means of a grant under section 18 (social housing grant) if, and only if, the [<sup>F27</sup>Relevant Authority] when making the grant notified the recipient that the dwelling was to be so regarded.
- The [<sup>F27</sup>Relevant Authority] shall before making the grant inform the applicant that it proposes to give such a notice and allow him an opportunity to withdraw his application within a specified time.
- [<sup>F28</sup>(5) But notice must be taken to be given to a registered social landlord under subsection (4) by the Housing Corporation if it is sent using electronic communications to such number or address as the registered social landlord has for the time being notified to the Housing Corporation for that purpose.
- (6) The means by which notice is sent by virtue of subsection (5) must be such as to enable the registered social landlord to reproduce the notice by electronic means in a form which is visible and legible.
- (7) An electronic communication is a communication transmitted (whether from one person to another, from one device to another, or from a person to a device or vice versa)—
- (a) by means of [<sup>F29</sup>an electronic communications network]; or
  - (b) by other means but while in an electronic form.]

#### Textual Amendments

- F26** S. 16(3A) inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 202(2)**, 270(3)(a) (with s. 202(3))
- F27** Words in Pt. I substituted (1.11.1998) by [1998 c. 38](#), s. 140, **Sch. 16 para. 82(1)(2)** (with [ss. 139\(2\)](#), [141\(1\)](#), [143\(2\)](#)); [S.I. 1998/2244](#), **art. 5**.
- F28** S. 16(5)-(7) added (E.) (24.10.2001) by [S.I. 2001/3257](#), **art. 2**
- F29** Words in s. 16(7)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), **ss. 408(6)**, 411(2), **Sch. 17 para. 136** (with [Sch. 18](#)); [S.I. 2003/1900](#), **arts. 1(2)**, 2(1), 3(1), **Sch. 1** (with **art. 3**) (as amended by [S.I. 2003/3142](#), **art. 1(3)**); [S.I. 2003/3142](#), **art. 3(2)** (with **art. 11**)

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

- C13** S. 16 restricted (1.4.1997) by [Housing Act 1985 c. 68](#), **Pt. V** (see [s. 122\(4\)](#)) as modified by [S.I. 1997/619](#), **art. 2(1)(2)**, **Sch. 1 para. 4**, **Sch. 2**
- S. 16 applied (10.5.1999) by [S.I. 1999/1135](#), **art. 2**, **Sch.**

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**C14** S. 16(2)(c) restricted (5.3.1997) by [S.I. 1997/618, art. 2, Sch. para. 1](#)

#### Marginal Citations

**M16** [1985 c. 68.](#)

### [<sup>F30</sup> 16A Extension of section 16 to dwellings funded by grants under section 27A

- (1) Section 16 applies in relation to a dwelling (“a funded dwelling”) provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.
- (2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.
- (3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.
- (4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—
  - (a) by the recipient of the grant mentioned in that subsection, or
  - (b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,
 exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.
- (5) In subsection (4) “relevant time” means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3).]

#### Textual Amendments

**F30** S. 16A inserted (17.2.2005 for E.) by [Housing Act 2004 \(c. 34\), ss. 221, 270\(4\), \(5\)\(c\); S.I. 2005/326, art. 2\(b\)](#)

### 17 Right of tenant to acquire dwelling: supplementary provisions.

- (1) The Secretary of State may by order—
  - (a) specify the amount or rate of discount to be given on the exercise of the right conferred by section 16; and
  - (b) designate rural areas in relation to dwellings in which the right conferred by that section does not arise.
- (2) The provisions of Part V of the Housing Act 1985 apply in relation to the right to acquire under section 16—
  - (a) subject to any order under subsection (1) above, and
  - (b) subject to such other exceptions, adaptations and other modifications as may be specified by regulations made by the Secretary of State.
- (3) The regulations may provide—
  - (a) that the powers of the Secretary of State under sections 164 to 170 of that Act (powers to intervene, give directions or assist) do not apply,

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- (b) that paragraphs 1 and 3 (exceptions for charities and certain housing associations), and paragraph 11 (right of appeal to Secretary of State), of Schedule 5 to that Act do not apply,
- (c) that the provisions of Part V of that Act relating to the right to acquire on rent to mortgage terms do not apply,
- (d) that the provisions of that Part relating to restrictions on disposals in National Parks, &c. do not apply, and
- (e) that the provisions of that Part relating to the preserved right to buy do not apply.

Nothing in this subsection affects the generality of the power conferred by subsection (2).

- (4) The specified exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of Part V of that Act as they apply in relation to the right to buy under that Part; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of Part V as they so apply.
- (5) An order or regulations under this section—
  - (a) may make different provision for different cases or classes of case including different areas, and
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate.
- (6) Before making an order which would have the effect that an area ceased to be designated under subsection (1)(b), the Secretary of State shall consult—
  - (a) the local housing authority or authorities in whose district the area or any part of it is situated or, if the order is general in its effect, local housing authorities in general, and
  - (b) such bodies appearing to him to be representative of registered social landlords as he considers appropriate.
- (7) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### CHAPTER III

#### GRANTS AND OTHER FINANCIAL MATTERS

##### *Grants and other financial assistance*

## 18 Social housing grants.

- (1) The [<sup>F31</sup>Relevant Authority] may make grants to registered social landlords in respect of expenditure incurred or to be incurred by them in connection with their housing activities.
- (2) The [<sup>F31</sup>Relevant Authority]<sup>F32</sup> ... shall specify in relation to grants under this section—
  - (a) the procedure to be followed in relation to applications for grant,
  - (b) the circumstances in which grant is or is not to be payable,

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- (c) the method for calculating, and any limitations on, the amount of grant, and
  - (d) the manner in which, and time or times at which, grant is to be paid.
- (3) In making a grant under this section, the [<sup>F31</sup>Relevant Authority] may provide that the grant is conditional on compliance by the landlord with such conditions as the [<sup>F31</sup>Relevant Authority] may specify.
- (4) The [<sup>F31</sup>Relevant Authority] may, with the agreement of a local housing authority, appoint the authority to act as its agent in connection with the assessment and payment of grant under this section.
- [<sup>F33</sup>(5) The appointment—
- (a) if made by the Housing Corporation, shall be on such terms as the Housing Corporation may, with the approval of the Secretary of State given with the consent of the Treasury, specify, and
  - (b) if made by the Secretary of State, shall be on such terms as the Secretary of State may, with the consent of the Treasury, specify;
- and, in either case, the authority shall act in accordance with those terms.]
- (6) Where—
- (a) a grant under this section is payable to a registered social landlord, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another registered social landlord, or trustees for another such landlord,
- this section (including this subsection) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under subsection (7), were payable to the other landlord.
- (7) The proportion mentioned in subsection (6) is that which, in the circumstances of the particular case—
- (a) the [<sup>F31</sup>Relevant Authority], acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
  - (b) the [<sup>F31</sup>Relevant Authority] may determine to be appropriate.
- (8) Where one of the landlords mentioned in subsection (6) is registered by the Housing Corporation and another is registered by [<sup>F34</sup>the Secretary of State], the determination mentioned in subsection (7) shall be such as shall be agreed between the [<sup>F34</sup>Housing Corporation and the Secretary of State].

#### Textual Amendments

- F31** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F32** Words in s. 18(2) repealed (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), Sch. 11 para. 8, **Sch. 16**
- F33** S. 18(5) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 85(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F34** Words in s. 18(8) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 85(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

- C15** S. 18(2)(7) extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

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#### Commencement Information

- I5** S. 18 wholly in force 1.4.1997: s. 18 not in force at Royal Assent, see s. 232(1)-(3); s. 18(2)(7) in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#) and s. 18 in force at 1.4.1997 to the extent it is not already in force by [S.I. 1997/618](#), [art. 2](#)

### 19 Land subject to housing management agreement.

A registered social landlord is not entitled to a grant under section 18 (social housing grant) in respect of land comprised in a management agreement within the meaning of the <sup>M17</sup>Housing Act 1985 (see sections 27(2) and 27B(4) of that Act: delegation of housing management functions by certain authorities).

#### Marginal Citations

- M17** 1985 c. 68.

### 20 Purchase grant where right to acquire exercised.

- (1) The [<sup>F35</sup>Relevant Authority] shall make grants to registered social landlords in respect of discounts given by them to persons exercising the right to acquire conferred by section 16.
- (2) The amount of the grant for any year shall be the aggregate value of the discounts given in that year.
- (3) The [<sup>F35</sup>Relevant Authority]<sup>F36</sup> ... shall specify in relation to grants under this section—
  - (a) the procedure to be followed in relation to applications for grant,
  - (b) the manner in which, and time or times at which, grant is to be paid.
- (4) In making a grant the [<sup>F35</sup>Relevant Authority] may provide that the grant is conditional on compliance by the registered social landlord with such conditions as the [<sup>F35</sup>Relevant Authority] may specify.

#### Textual Amendments

- F35** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244, art.5](#).
- F36** Words in s. 20(3) repealed (18.1.2005) by [Housing Act 2004 \(c. 34\), s. 270\(3\)\(c\), Sch. 11 para. 9, Sch. 16](#)

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

- C16** S. 20(3) extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

#### Commencement Information

- I6** S. 20 wholly in force 1.4.1997: s. 20 not in force at Royal Assent, see s. 232(1)-(3); s. 20(3) in force for certain purposes at 1.10.1996 by [S.I. 1996/2402, art. 4](#) and s. 20 in force at 1.4.1997 to the extent it is not already in force by [S.I. 1997/618, art. 2](#)

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## 21 Purchase grant in respect of other disposals.

- (1) The [<sup>F37</sup>Relevant Authority] may make grants to registered social landlords in respect of discounts on disposals by them of dwellings to tenants otherwise than in pursuance of the right conferred by section 16.
- (2) The [<sup>F37</sup>Relevant Authority] shall make such a grant if the tenant was entitled to exercise the right conferred by section 16 in relation to another dwelling of the landlord's.

The amount of the grant in such a case shall not exceed the amount of the discount to which the tenant would have been entitled in respect of the other dwelling.

- (3) The [<sup>F37</sup>Relevant Authority]<sup>F38</sup> ... shall specify in relation to grants under this section—
  - (a) the procedure to be followed in relation to applications for grant;
  - (b) the circumstances in which grant is or is not to be payable;
  - (c) the method for calculating, and any limitations on, the amount of grant; and
  - (d) the manner in which, and time or times at which, grant is to be paid.
- (4) In making a grant under this section, the [<sup>F37</sup>Relevant Authority] may provide that the grant is conditional on compliance by the registered social landlord with such conditions as the [<sup>F37</sup>Relevant Authority] may specify.

### Textual Amendments

**F37** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F38** Words in s. 21(3) repealed (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), Sch. 11 para. 10, **Sch. 16**

### Modifications etc. (not altering text)

**C17** S. 21(3) extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

### Commencement Information

**I7** S. 21 wholly in force 1.4.1997; s. 21 not in force at Royal Assent, see s. 232(1)-(3); s. 21(3) in force for certain purposes at 1.10.1996 by S.I. 1996/2402, **art. 4** and s. 21 in force at 1.4.1997 to the extent it is not already in force by S.I. 1997/618, **art. 2**

## 22 Assistance from local authorities.

- (1) A local authority may promote—
  - (a) the formation of bodies to act as registered social landlords, and
  - (b) the extension of the objects or activities of registered social landlords.
- (2) A local authority may for the assistance of any registered social landlord subscribe for share or loan capital of the landlord.
- (3) A local authority may for the assistance of a registered social landlord—
  - (a) make grants or loans to the landlord, or
  - (b) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the landlord (including money borrowed by the issue of loan capital) or of interest on share capital issued by the landlord.



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- (4) A local housing authority may sell or supply under a hire-purchase agreement furniture to the occupants of houses provided by a registered social landlord, and may buy furniture for that purpose.

In this subsection “hire-purchase agreement” means a hire-purchase agreement or conditional sale agreement within the meaning of the <sup>M18</sup>Consumer Credit Act 1974.

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

**C18** S. 22 extended (16.9.1996) by [S.I. 1996/2402](#), [art. 3](#), Sch. para. 1

**Marginal Citations**

**M18** 1974 c. 39.

## 23 Loans by Public Works Loans Commissioners.

- (1) The Public Works Loans Commissioners may lend money to a registered social landlord—
- for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement, of dwellings,
  - for the purchase of dwellings which the landlord desires to purchase with a view to their improvement, and
  - for the purchase and development of land.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a mortgage of—
- the land in respect of which that purpose is to be carried out, and
  - such other lands (if any) as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters (or, if the payment of the principal of, and interest on, the loan is guaranteed by a local authority, nine-tenths) of the value, to be ascertained to the satisfaction of the Public Works Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments as the building of dwellings or other work on the land mortgaged under subsection (2) progresses (so, however, that the total amount lent does not at any time exceed the amount specified in that subsection); and a mortgage may accordingly be made to secure such loans to be so made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), and is not guaranteed as to principal and interest by a local authority, the Public Works Loans Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they think fit.
- (5) Subject to subsection (6), the period for repayment of a loan under this section shall not exceed 40 years, and no money shall be lent on mortgage of any land unless the estate proposed to be mortgaged is either an estate in fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) Where a loan under this section is made for the purpose of carrying out a scheme for the provision of houses approved by the Secretary of State, the maximum period for the repayment of the loan is 50 instead of 40 years, and money may be lent on the

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mortgage of an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan.

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

**C19** S. 23 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. para. 1

*Treatment of disposal proceeds*

**24 The disposal proceeds fund.**

- (1) A registered social landlord shall show separately in its accounts for any period ending after the coming into force of this section its net disposal proceeds.
- (2) The net disposal proceeds of a registered social landlord are—
  - (a) the net proceeds of sale received by it in respect of any disposal of land to a tenant—
    - (i) in pursuance of the right conferred by section 16 (right of tenant to acquire dwelling), or
    - (ii) in respect of which a grant was made under section 21 (purchase grant in respect of other disposals);
  - (b) payments of grant received by it under section 20 or 21 (purchase grant);
  - (c) where any such grant has been paid to it, any repayments of discount in respect of which the grant was given; and
  - (d) such other proceeds of sale or payments of grant (if any) as the [<sup>F39</sup>Relevant Authority] may from time to time determine.
- (3) The net proceeds of sale means the proceeds of sale less an amount calculated in accordance with a determination by the [<sup>F39</sup>Relevant Authority].
- (4) The disposal proceeds shall be shown in a fund to be known as a disposal proceeds fund.
- (5) The method of constituting the fund and showing it in the landlord's accounts shall be as required by determination of the [<sup>F39</sup>Relevant Authority] under paragraph 16 of Schedule 1 (general requirements as to accounts).
- (6) Interest shall be added to the fund in accordance with a determination made by the [<sup>F39</sup>Relevant Authority].
- (7) Where this section applies in relation to the proceeds of sale arising on a disposal, section 27 below (recovery, &c. of social housing grants) and section 52 of the <sup>M19</sup>Housing Act 1988 (recovery, &c. of grants under that Act and earlier enactments) do not apply.

**Textual Amendments**

**F39** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

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#### Commencement Information

**I8** S. 24 wholly in force 1.4.1997; s. 24 not in force at Royal Assent see s. 232(3); s.24 in force for certain purposes at 1.8.1996 by S.I. 1996/2048, **art. 3** and s. 24 in force at 1.4.1997 to the extent it is not already in force by S.I. 1997/618, **art. 2**

#### Marginal Citations

**M19** 1988 c. 50.

## 25 Application or appropriation of disposal proceeds.

- (1) The sums standing in the disposal proceeds account of a registered social landlord (“disposal proceeds”) may only be applied or appropriated by it for such purposes and in such manner as the [<sup>F40</sup>Relevant Authority] may determine.
- (2) If any disposal proceeds are not applied or appropriated as mentioned in subsection (1) within such time as is specified by determination of the [<sup>F40</sup>Relevant Authority], the [<sup>F40</sup>Relevant Authority] may direct that the whole or part of them shall be paid to it.

#### Textual Amendments

**F40** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C20** S. 25 extended (16.9.1996) by S.I. 1996/2402, **art. 3**, **Sch. para. 1**

#### Commencement Information

**I9** S. 25 wholly in force 1.4.1997; s. 25 not in force at Royal Assent, see s. 232(1)-(3); s. 25 in force for certain purposes at 1.10.1996 by S.I. 1996/2402, **art. 4** and s. 25 in force at 1.4.1997 to the extent it is not already in force by S.I. 1997/618, **art. 2**

## 26 Disposal proceeds: power to require information.

- (1) The [<sup>F41</sup>Relevant Authority] may give notice—
  - (a) to all registered social landlords,
  - (b) to registered social landlords of a particular description, or
  - (c) to particular registered social landlords,requiring them to furnish it with such information as it may reasonably require in connection with the exercise of its functions under sections 24 and 25 (treatment of disposal proceeds).
- (2) A notice under subsection (1)(a) or (b) may be given by publication in such manner as the [<sup>F41</sup>Relevant Authority] considers appropriate for bringing it to the attention of the landlords concerned.

#### Textual Amendments

**F41** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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*Recovery, &c. of social housing grants*

**27 Recovery, &c. of social housing grants.**

- (1) Where a registered social landlord has received a grant under section 18 (social housing grant), the following powers are exercisable in such events as the [<sup>F42</sup>Relevant Authority] may from time to time determine.
- (2) The [<sup>F42</sup>Relevant Authority] may, acting in accordance with such principles as it has determined—
  - (a) reduce any grant payable by it, or suspend or cancel any instalment of any such grant, or
  - (b) direct the registered social landlord to apply or appropriate for such purposes as the [<sup>F42</sup>Relevant Authority] may specify, or to pay to the [<sup>F42</sup>Relevant Authority], such amount as the [<sup>F42</sup>Relevant Authority] may specify.
- (3) A direction by the [<sup>F42</sup>Relevant Authority] under subsection (2)(b) may require the application, appropriation or payment of an amount with interest.
- (4) Any such direction shall specify—
  - (a) the rate or rates of interest (whether fixed or variable) which is or are applicable,
  - (b) the date from which interest is payable, and
  - (c) any provision for suspended or reduced interest which is applicable.

The date from which interest is payable must not be earlier than the date of the event giving rise to the exercise of the [<sup>F42</sup>Relevant Authority] powers under this section.

- (5) In subsection (4)(c)—
  - (a) provision for suspended interest means provision to the effect that if the principal amount is applied, appropriated or paid before a date specified in the direction, no interest will be payable for any period after the date of the direction; and
  - (b) provision for reduced interest means provision to the effect that if the principal amount is so applied, appropriated or paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.
- (6) Where—
  - (a) a registered social landlord has received a payment in respect of a grant under section 18, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered social landlord,
 this section (including this subsection) shall have effect in relation to periods after that time as if the grant, or such proportion of it as may be determined by the [<sup>F42</sup>Relevant Authority] to be appropriate, had been made to that other registered social landlord.
- (7) The matters specified in a direction under subsection (4)(a) to (c), and the proportion mentioned in subsection (6), shall be—
  - (a) such as the [<sup>F42</sup>Relevant Authority], acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
  - (b) such as the [<sup>F42</sup>Relevant Authority] may determine to be appropriate in the particular case.

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#### Textual Amendments

**F42** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C21** S. 27 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

#### Commencement Information

**I10** S. 27 wholly in force 1.4.1997: s. 27 not in force at Royal Assent, see s. 232(1)-(3); s. 27 in force for certain purposes at 1.10.1996 by S.I. 1996/2402, **art. 4** and s. 27 in force at 1.4.1997 to the extent it is not already in force by S.I. 1997/618, **art. 2**

### *[<sup>F43</sup> Grants to bodies other than registered social landlords*

#### Textual Amendments

**F43** Ss. 27A, 27B and cross-heading inserted (18.11.2004 for specified purposes, 17.2.2005 for E. in so far as not already in force) by **Housing Act 2004 (c. 34), ss. 220, 270(2)(b)**; S.I. 2005/326, **art. 2(a)**

## **27A Grants to bodies other than registered social landlords**

- (1) The Relevant Authority may make grants under this section to persons other than registered social landlords.
- (2) Grants under this section are grants for any of the following purposes—
  - (a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (b) constructing houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;
  - (d) providing, constructing or improving houses to be kept available for letting;
  - (e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority;
  - (f) such other purposes as may be specified in an order under subsection (3).
- (3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.
- (4) An order under subsection (3) may, in particular, make provision—
  - (a) defining “equity percentage arrangements” for the purposes of this section;
  - (b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;
  - (c) dealing with the priority of mortgages entered into by such persons;

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- (d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).
- (5) As regards grants made by the Housing Corporation, an order under subsection (3) may also require the imposition of conditions in connection with such grants, and for this purpose may—
  - (a) prescribe conditions that are to be so imposed;
  - (b) prescribe matters about which conditions are to be so imposed and any particular effects that such conditions are to achieve.
- (6) The Relevant Authority shall specify in relation to grants under this section—
  - (a) the procedure to be followed in relation to applications for grant,
  - (b) the circumstances in which grant is or is not to be payable,
  - (c) the method for calculating, and any limitations on, the amount of grant, and
  - (d) the manner in which, and the time or times at which, grant is to be paid.
- (7) If, by virtue of subsection (5), an order under subsection (3) requires conditions to be imposed by the Housing Corporation in connection with a grant to a person under this section, the Corporation in making the grant—
  - (a) must provide that the grant is conditional on compliance by the person with such conditions as are required by the order; and
  - (b) if it exercises its power to impose conditions under subsection (8), must not impose any that are inconsistent with the requirements of the order.
- (8) In making a grant to a person under this section the Relevant Authority may provide that the grant is conditional on compliance by the person with such conditions as the Authority may specify.
- (9) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).
- (10) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
  - “disposed of on shared ownership terms” has the meaning given by section 2(6);
  - “letting” includes the grant of a licence to occupy.

## **27B Transfer of property funded by grants under section 27A**

- (1) Where—
  - (a) any grant is paid or payable to any person under section 27A, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another person who is not a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 27A.
- (2) Where—
  - (a) any amount is paid or payable to any person by way of grant under section 27A, and

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- (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, a registered social landlord,  
this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 18.
- (3) In such a case, the relevant section 18 conditions accordingly apply to that grant or proportion of it, in relation to times falling after that time, in place of those specified under section 27A(8).  
“The relevant section 18 conditions” means such conditions specified under section 18(3) as would have applied at the time of the making of the grant if it had been made under section 18 to a registered social landlord.
- (4) The proportion mentioned in subsection (1) or (2) is that which, in the circumstances of the particular case—
- (a) the Relevant Authority, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
  - (b) the Relevant Authority may determine to be appropriate.]

*Grants, &c. under earlier enactments*

**28 Grants under ss.50 to [F<sup>44</sup> 54 ] of the Housing Act 1988.**

- (1) No application for a grant under section 50 of the <sup>M20</sup>Housing Act 1988 (housing association grant) may be made after the commencement of this subsection.
- (2) No application for a grant under section 51 of that Act (revenue deficit grant) may be made after the commencement of this subsection except by an association which had such a deficit as is mentioned in that section for any of the years beginning 1st April 1994, 1st April 1995 or 1st April 1996.
- (3) Section 52 of that Act (recovery, &c. of grants) is amended as follows—
- (a) in subsection (2)(c), for “to pay to it” substitute “ to apply or appropriate for such purposes as the [F<sup>45</sup>Relevant Authority] may specify, or to pay to the [F<sup>45</sup>Relevant Authority], ”;
  - (b) in the closing words of subsection (2), for the words from “requiring” to “interest on that amount” substitute “ may require the application, appropriation or payment of an amount with interest ”;
  - (c) in subsection (7), for the words from “requiring” to “to the [F<sup>45</sup>Relevant Authority]” substitute “ requiring the application, appropriation or payment of an amount with interest ”;
  - (d) in subsection (8)(a), for the words from “the amount” to “is paid” substitute “ the principal amount is applied, appropriated or paid ”;
  - (e) in subsection (8)(b), for “that amount is so paid” substitute “ the principal amount is so applied, appropriated or paid ”.
- (4) In section 53 of that Act (determinations by [F<sup>45</sup>Relevant Authority]), for subsection (2) (requirement of approval of Secretary of State and, in the case of a general determination, consent of the Treasury) substitute—

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“(2) The [F45Relevant Authority] shall not make a general determination under the foregoing provisions of this Part except with the approval of the Secretary of State.”.

- (5) In section 55(1) of that Act (surplus rental income: cases in which section applies), omit paragraph (a).
- (6) Any reference in sections 50 to [F46 54 ] of that Act to registration as a housing association shall be construed after the commencement of section 1 of this Act (the register of social landlords) as a reference to registration as a social landlord.

#### Textual Amendments

- F44** Word in s. 28 sidenote substituted (18.1.2005) by [Housing Act 2004 \(c. 34\), s. 270\(3\)\(c\)](#), [Sch. 11 para. 11](#)
- F45** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244, art.5](#).
- F46** Word in s. 28(6) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\), s. 270\(3\)\(c\)](#), [Sch. 11 para. 11](#)

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

- C22** S. 28(3) extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

#### Commencement Information

- I11** S. 28 wholly in force 1.4.1997; s. 28 not in force at Royal Assent see s. 232(1)-(3); s.28(4) in force at 1.8.1996 by [S.I. 1996/2048, art. 2](#); s. 28(3) in force for certain purposes at 1.10.1996 by [S.I. 1996/2402, art. 5](#) and s. 28 in force at 1.4.1997 to the extent it is not already in force by [S.I. 1997/618, art. 2](#)

#### Marginal Citations

- M20** [1988 c. 50](#).

## 29 Commutation of payments of special residual subsidy.

- (1) The Secretary of State may, after consultation with a housing association, determine to commute any payments of special residual subsidy payable to the association under paragraph 2 of Part I of Schedule 5 to the <sup>M21</sup>Housing Associations Act 1985 for the financial year 1998-99 and subsequent years.
- (2) Where the Secretary of State makes such a determination the payments of special residual subsidy payable to a housing association shall be commuted into a single sum calculated in such manner, and payable on such date, as the Secretary of State may consider appropriate.
- (3) If after a commuted payment has been made to a housing association it appears to the Secretary of State that the payment was smaller or greater than it should have been, the Secretary of State may make a further payment to the association or require the association to repay to him such sum as he may direct.
- (4) The Secretary of State may delegate to the Housing Corporation, to such extent and subject to such conditions as he may specify, any of his functions under this section and, where he does so, references to him in this section shall be construed accordingly.



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#### Commencement Information

**I12** S. 29 wholly in force 1.4.1997; s. 29 not in force at Royal Assent see s. 232(3); s. 29 in force for certain purposes at 1.8.1996 by S.I. 1996/2048, art. 3 and s. 29 in force at 1.4.1997 to the extent it is not already in force by S.I. 1997/618, art. 2

#### Marginal Citations

**M21** 1985 c. 69.

## CHAPTER IV

### GENERAL POWERS OF THE [F47RELEVANT AUTHORITY]

#### Textual Amendments

**F47** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 82(1)(2) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art.5.

#### Information

### 30 General power to obtain information.

- (1) The [F48Relevant Authority] may for any purpose connected with the discharge of any of its functions in relation to registered social landlords serve a notice on a person requiring him—
- (a) to give to the [F48Relevant Authority], at a time and place and in the form and manner specified in the notice, such information relating to the affairs of a registered social landlord as may be specified or described in the notice, or
  - (b) to produce to the [F48Relevant Authority] or a person authorised by the [F48Relevant Authority], at a time and place specified in the notice, any documents relating to the affairs of the registered social landlord which are specified or described in the notice and are in his custody or under his control.
- (2) A notice under this section may be served on—
- (a) a registered social landlord,
  - (b) any person who is, or has been, an officer, member, employee or agent of a registered social landlord,
  - (c) a subsidiary or associate of a registered social landlord,
  - (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered social landlord, or
  - (e) any other person whom the [F48Relevant Authority] has reason to believe is or may be in possession of relevant information.

In this section “agent” includes banker, solicitor and auditor.

- (3) No notice shall be served on a person within paragraphs (b) to (e) of subsection (2) unless—
- (a) a notice has been served on the registered social landlord and has not been complied with, or

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- (b) the [<sup>F48</sup>Relevant Authority] believes that the information or documents in question are not in the possession of the landlord.
- (4) Nothing in this section authorises the [<sup>F48</sup>Relevant Authority] to require—
- (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or
- (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered social landlord or a subsidiary or associate of a registered social landlord.
- [<sup>F49</sup>(5) A notice under this section—
- (a) if given by the Housing Corporation, shall be given under its seal, and
- (b) if given by the Secretary of State, shall be given in writing.]
- (6) References in this section to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (7) Where by virtue of this section documents are produced to any person, he may take copies of or make extracts from them.

#### Textual Amendments

**F48** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F49** S. 30(5) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.86** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C23** S. 30 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

### 31 Enforcement of notice to provide information, &c.

- (1) A person who without reasonable excuse fails to do anything required of him by a notice under section 30 commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) A person who intentionally alters, suppresses or destroys a document which he has been required by a notice under section 30 to produce commits an offence and is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- [<sup>F50</sup>(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.]
- (3) Proceedings for an offence under subsection (1) or (2) may be brought only by or with the consent of the [<sup>F51</sup>Relevant Authority] or the Director of Public Prosecutions.
- (4) If a person makes default in complying with a notice under section 30, the High Court may, on the application of the [<sup>F51</sup>Relevant Authority], make such order as the court thinks fit for requiring the default to be made good.

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Any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a body who are responsible for its default.

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**Textual Amendments**

- F50** S. 31(2)(b) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\), s. 270\(3\)\(c\), Sch. 11 para. 12\(1\)](#) (with [Sch. 11 para. 12\(2\)](#))
- F51** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with [ss. 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244, art.5](#).

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

- C24** S. 31 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

**32 Disclosure of information to the [<sup>F52</sup>Relevant Authority].**

- (1) A body or person to whom this section applies may, subject to the following provisions, disclose to the [<sup>F52</sup>Relevant Authority], for the purpose of enabling the [<sup>F52</sup>Relevant Authority] to discharge any of its functions relating to registered social landlords, any information received by that body or person under or for the purposes of any enactment.
- (2) This section applies to the following bodies and persons—
- (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (3) This section has effect subject to any express restriction on disclosure imposed by or under any other enactment.
- (4) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

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**Textual Amendments**

- F52** Words in Pt. I substituted (1.11.1998) by [1998 c. 38, s. 140, Sch. 16 para. 82\(1\)\(2\)](#) (with [ss. 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244, art.5](#).

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

- C25** S. 32 extended (16.9.1996) by [S.I. 1996/2402, art. 3, Sch. para. 1](#)

**33 Disclosure of information by the [<sup>F53</sup>Relevant Authority].**

- (1) The [<sup>F53</sup>Relevant Authority] may disclose to a body or person to whom this section applies any information received by it relating to a registered social landlord—
- (a) for any purpose connected with the discharge of the functions of the [<sup>F53</sup>Relevant Authority] in relation to such landlords, or

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- (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.
- (2) This section applies to the following bodies and persons—
- (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

Paragraph (d) extends to any such body or person in a country or territory outside the United Kingdom.

- (3) Where any information disclosed to the [F53Relevant Authority] under section 32 is so disclosed subject to any express restriction on the further disclosure of the information, the [F53Relevant Authority's] power of disclosure under this section is exercisable subject to that restriction.

A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) Any information disclosed by the [F53Relevant Authority] under this section may be subject by the [F53Relevant Authority] to any express restriction on the further disclosure of the information.
- (5) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of the [F53Relevant Authority] or the Director of Public Prosecutions.

- (6) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.

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**Textual Amendments**

**F53** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C26** S. 33 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

*Standards of performance*

**34 Standards of performance.**

The [F54Relevant Authority] may, after consultation with persons or bodies appearing to it to be representative of registered social landlords, from time to time—

- (a) determine such standards of performance in connection with the provision of housing as, in its opinion, ought to be achieved by such landlords, and

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- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

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**Textual Amendments**

**F54** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C27** S. 34 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

### 35 Information as to levels of performance.

- (1) The [<sup>F55</sup>Relevant Authority] shall from time to time collect information as to the levels of performance achieved by registered social landlords in connection with the provision of housing.
- (2) On or before such date in each year as may be specified in a direction given by the [<sup>F55</sup>Relevant Authority], each registered social landlord shall provide the [<sup>F55</sup>Relevant Authority], as respects each standard determined under section 34, with such information as to the level of performance achieved by him as may be so specified.
- (3) A registered social landlord who without reasonable excuse fails to do anything required of him by a direction under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Proceedings for such an offence may be brought only by or with the consent of the [<sup>F55</sup>Relevant Authority] or the Director of Public Prosecutions.

- (4) The [<sup>F55</sup>Relevant Authority] shall at least once in every year arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or provided to it under this section as appears to it expedient to give to tenants or potential tenants of registered social landlords.
- (5) In arranging for the publication of any such information the [<sup>F55</sup>Relevant Authority] shall have regard to the need for excluding, so far as that is practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the [<sup>F55</sup>Relevant Authority], seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the [<sup>F55</sup>Relevant Authority], seriously and prejudicially affect the interests of that body.

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**Textual Amendments**

**F55** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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### **Commencement Information**

**I13** S. 35 wholly in force 1.4.1998; s. 35 not in force at Royal Assent see s. 232(1)-(3); s. 35(1)(2)(3)(5) in force at 1.4.1997 and s. 35(4) in force at 1.4.1998 by [S.I. 1997/618](#), [arts. 2, 3](#)

## *Housing management*

### **36 Issue of guidance by the [<sup>F56</sup>Relevant Authority].**

- (1) The [<sup>F56</sup>Relevant Authority] may issue guidance with respect to the management of housing accommodation by registered social landlords.
- (2) Guidance under [<sup>F57</sup> subsection (1) ] may, in particular, be issued with respect to—
  - (a) the housing demands for which provision should be made and the means of meeting those demands;
  - (b) the allocation of housing accommodation between individuals;
  - (c) the terms of tenancies and the principles upon which levels of rent should be determined;
  - (d) standards of maintenance and repair and the means of achieving those standards;
  - (e) the services to be provided to tenants;
  - (f) the procedures to be adopted to deal with complaints by tenants against a landlord;
  - (g) consultation and communication with tenants;
  - (h) the devolution to tenants of decisions concerning the management of housing accommodation.
  - [<sup>F58</sup>(i) the policy and procedures a landlord is required under section 218A to prepare and from time to time revise in connection with anti-social behaviour.]

[<sup>F59</sup>(2A) The Relevant Authority may also issue guidance with respect to—

- (a) the governance of bodies that are registered social landlords;
- (b) the effective management of such bodies;
- (c) establishing and maintaining the financial viability of such bodies.]

[<sup>F60</sup>(3) Before issuing any guidance under this section the Relevant Authority shall consult such bodies appearing to the Relevant Authority to be representative of registered social landlords as the Relevant Authority considers appropriate; and where the Relevant Authority issues guidance under this section it shall be issued in such manner as the Relevant Authority considers appropriate for bringing it to the notice of the landlords concerned.

- (4) The Housing Corporation shall not issue guidance under this section unless—
  - (a) it has been submitted in draft to the Secretary of State for his approval, and
  - (b) the Secretary of State has given his approval to the draft.]
  - (5) Guidance issued under this section may be revised or withdrawn; and subsections (3) and (4) apply in relation to the revision of guidance as in relation to its issue.
  - (6) Guidance under this section may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered social landlord.

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- (7) In considering whether action needs to be taken to secure the proper management of the affairs of a registered social landlord or whether there has been [<sup>F61</sup> misconduct or ] mismanagement, the [<sup>F56</sup>Relevant Authority] may have regard (among other matters) to the extent to which any guidance under this section is being or has been followed.

#### Textual Amendments

- F56** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F57** Words in s. 36(2) substituted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 13(2)**
- F58** S. 36(2)(i) inserted (30.6.2004 for E.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 12(2), 93**; S.I. 2004/1502, **art. 2(a)(i)**
- F59** S. 36(2A) inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 13(3)**
- F60** S. 36(3)(4) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.87** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F61** Words in s. 36(7) inserted (18.1.2005) by Housing Act 2004 (c. 34), s. 270(3)(c), **Sch. 11 para. 13(4)**

#### Commencement Information

- I14** S. 36 wholly in force 1.10.1996; s. 36 not in force at Royal Assent see s. 232(1)-(3); s. 36(1)-(6) in force at 1.8.1996 by S.I. 1996/2048, **art. 2** and s. 36(7) in force at 1.10.1996 by S.I. 1996/2402, **art. 3** (with transitional provisions and savings in the **Sch.**)

### 37 Powers of entry.

- (1) This section applies where it appears to the [<sup>F62</sup>Relevant Authority] that a registered social landlord may be failing to maintain or repair any premises in accordance with guidance issued under section 36.
- (2) A person authorised by the [<sup>F62</sup>Relevant Authority] may at any reasonable time, on giving not less than 28 days' notice of his intention to the landlord concerned, enter any such premises for the purpose of survey and examination.
- (3) Where such notice is given to the landlord, the landlord shall give the occupier or occupiers of the premises not less than seven days' notice of the proposed survey and examination.

A landlord who fails to do so commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) Proceedings for an offence under subsection (3) may be brought only by or with the consent of the [<sup>F62</sup>Relevant Authority] or the Director of Public Prosecutions.
- (5) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.
- (6) The [<sup>F62</sup>Relevant Authority] shall give a copy of any survey carried out in exercise of the powers conferred by this section to the landlord concerned.
- (7) The [<sup>F62</sup>Relevant Authority] may require the landlord concerned to pay to it such amount as the [<sup>F62</sup>Relevant Authority] may determine towards the costs of carrying out any survey under this section.

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#### Textual Amendments

**F62** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C28** S. 37 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

### 38 Penalty for obstruction of person exercising power of entry.

- (1) It is an offence for a registered social landlord or any of its officers or employees to obstruct a person authorised under section 37 (powers of entry) to enter premises in the performance of anything which he is authorised by that section to do.
- (2) A person who commits such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Proceedings for such an offence may be brought only by or with the consent of the [<sup>F63</sup>Relevant Authority] or the Director of Public Prosecutions.

#### Textual Amendments

**F63** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C29** S. 38 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

### *Insolvency, &c. of registered social landlord*

### 39 Insolvency, &c. of registered social landlord: scheme of provisions.

- (1) The following sections make provision—
  - (a) for notice to be given to the [<sup>F64</sup>Relevant Authority] of any proposal to take certain steps in relation to a registered social landlord (section 40), and for further notice to be given when any such step is taken (section 41),
  - (b) for a moratorium on the disposal of land, and certain other assets, held by the registered social landlord (sections 42 and 43),
  - (c) for proposals by the [<sup>F64</sup>Relevant Authority] as to the future ownership and management of the land held by the landlord (section 44), which are binding if agreed (section 45),
  - (d) for the appointment of a manager to implement agreed proposals (section 46) and as to the powers of such a manager (sections 47 and 48),
  - (e) for the giving of assistance by the [<sup>F64</sup>Relevant Authority] (section 49), and
  - (f) for application to the court to secure compliance with the agreed proposals (section 50).
- (2) In those sections—
 

“disposal” means sale, lease, mortgage, charge or any other disposition, and includes the grant of an option;



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“secured creditor” means a creditor who holds a mortgage or charge (including a floating charge) over land held by the landlord or any existing or future interest of the landlord in rents or other receipts from land; and

“security” means any mortgage, charge or other security.

- (3) The Secretary of State may make provision by order defining for the purposes of those sections what is meant by a step to enforce security over land.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F64** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### 40 Initial notice to be given to the [<sup>F65</sup>Relevant Authority].

- (1) Notice must be given to the [<sup>F65</sup>Relevant Authority] before any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is an industrial and provident society, the steps and the person by whom notice must be given are—

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Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Presenting a petition for the winding up of the landlord.	The petitioner.
Passing a resolution for the winding up of the landlord.	The landlord.

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- (3) Where the registered social landlord is a company registered under the <sup>M22</sup>Companies Act 1985 (including a registered charity), the steps and the person by whom notice must be given are—

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Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
Applying for an administration order.	The applicant.
Presenting a petition for the winding up of the landlord.	The petitioner.
Passing a resolution for the winding up of the landlord.	The landlord.

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- (4) Where the registered social landlord is a registered charity (other than a company registered under the Companies Act 1985), the steps and the person by whom notice must be given are—

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Any step to enforce any security over land held by the landlord.	The person proposing to take the step.
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- (5) Notice need not be given under this section in relation to a resolution for voluntary winding up where the consent of the [<sup>F65</sup>Relevant Authority] is required (see paragraphs 12(4) and 13(6) of Schedule 1).
- (6) Any step purportedly taken without the requisite notice being given under this section is ineffective.
- [<sup>F66</sup>(7) Subsections (8) and (9) apply in relation to the reference in subsection (3) to applying for an administration order.
- (8) In a case where an administrator is appointed under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (appointment by floating charge holder, company or directors)—
- (a) the reference includes a reference to appointing an administrator under that paragraph, and
  - (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.
- (9) In a case where a copy of a notice of intention to appoint an administrator under either of those paragraphs is filed with the court—
- (a) the reference shall be taken to include a reference to the filing of the copy of the notice, and
  - (b) in respect of the filing of a copy of a notice of intention to appoint under either of those paragraphs the reference to the applicant shall be taken as a reference to the person giving the notice.]

#### Textual Amendments

**F65** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F66** S. 40(7)-(9) added (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 17 para. 51** (with s. 249(1)-(3)); S.I. 2003/2093, **art. 2(1)**, **Sch. 1** (with art. 3)

#### Marginal Citations

**M22** 1985 c. 6.

#### 41 Further notice to be given to the [<sup>F67</sup>Relevant Authority].

- (1) Notice must be given to the [<sup>F67</sup>Relevant Authority] as soon as may be after any of the steps mentioned below is taken in relation to a registered social landlord.

The person by whom the notice must be given is indicated in the second column.

- (2) Where the registered social landlord is an industrial and provident society, the steps and the person by whom notice must be given are—

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The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

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- (3) Where the registered social landlord is a company registered under the <sup>M23</sup>Companies Act 1985 (including a registered charity), the steps and the person by whom notice must be given are—

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The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
The making of an administration order.	The person who applied for the order.
The making of an order for the winding up of the landlord.	The petitioner.
The passing of a resolution for the winding up of the landlord.	The landlord.

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- (4) Where the registered social landlord is a registered charity (other than a company registered under the Companies Act 1985), the steps and the person by whom notice must be given are—

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The taking of a step to enforce any security over land held by the landlord.	The person taking the step.
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- (5) Failure to give notice under this section does not affect the validity of any step taken; but the period of 28 days mentioned in section 43(1) (period after which moratorium on disposal of land, &c. ends) does not begin to run until any requisite notice has been given under this section.

[<sup>F68</sup>(6) In subsection (3)—

- (a) the reference to the making of an administration order includes a reference to appointing an administrator under paragraph 14 or 22 of Schedule B1 to the Insolvency Act 1986 (administration), and
- (b) in respect of an appointment under either of those paragraphs the reference to the applicant shall be taken as a reference to the person making the appointment.]

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#### Textual Amendments

- F67** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F68** S. 41(6) added (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 17 para. 52** (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
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#### Marginal Citations

- M23** 1985 c. 6.

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## 42 Moratorium on disposal of land, &c.

- (1) Where any of the steps mentioned in section 41 is taken in relation to a registered social landlord, there is a moratorium on the disposal of land held by the landlord.
- (2) During the moratorium the consent of the [<sup>F69</sup>Relevant Authority] under this section is required (except as mentioned below) for any disposal of land held by the landlord, whether by the landlord itself or any person having a power of disposal in relation to the land.  
  
Consent under this section may be given in advance and may be given subject to conditions.
- (3) Consent is not required under this section for any such disposal as is mentioned in section 10(1), (2) or (3) (lettings and other disposals not requiring consent under section 9).
- (4) A disposal made without the consent required by this section is void.
- (5) Nothing in this section prevents a liquidator from disclaiming any land held by the landlord as onerous property.
- (6) The provisions of this section apply in relation to any existing or future interest of the landlord in rent or other receipts arising from land as they apply to an interest in land.

### Textual Amendments

**F69** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

## 43 Period of moratorium.

- (1) The moratorium in consequence of the taking of any step as mentioned in section 41—
  - (a) begins when the step is taken, and
  - (b) ends at the end of the period of 28 days beginning with the day on which notice of its having been taken was given to the [<sup>F70</sup>Relevant Authority] under that section,
 subject to the following provisions.
- (2) The taking of any further step as mentioned in section 41 at a time when a moratorium is already in force does not start a further moratorium or affect the duration of the existing one.
- (3) A moratorium may be extended from time to time with the consent of all the landlord's secured creditors.  
  
Notice of any such extension shall be given by the [<sup>F70</sup>Relevant Authority] to—
  - (a) the landlord, and
  - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the landlord or any land held by it.
- (4) If during a moratorium the [<sup>F70</sup>Relevant Authority] considers that the proper management of the landlord's land can be secured without making proposals under section 44 (proposals as to ownership and management of landlord's land), the [<sup>F70</sup>Relevant Authority] may direct that the moratorium shall cease to have effect.

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Before making any such direction the [F70Relevant Authority] shall consult the person who took the step which brought about the moratorium.

- (5) When a moratorium comes to an end, or ceases to have effect under subsection (4), the [F70Relevant Authority] shall give notice of that fact to the landlord and the landlord's secured creditors.
- (6) When a moratorium comes to an end (but not when it ceases to have effect under subsection (4)), the following provisions of this section apply.

The [F70Relevant Authority's] notice shall, in such a case, inform the landlord and the landlord's secured creditors of the effect of those provisions.

- (7) If any further step as mentioned in section 41 is taken within the period of three years after the end of the original period of the moratorium, the moratorium may be renewed with the consent of all the landlord's secured creditors (which may be given before or after the step is taken).

Notice of any such renewal shall be given by the [F70Relevant Authority] to the persons to whom notice of an extension is required to be given under subsection (3).

- (8) If a moratorium ends without any proposals being agreed, then, for a period of three years the taking of any further step as mentioned in section 41 does not start a further moratorium except with the consent of the landlord's secured creditors as mentioned in subsection (7) above.

#### Textual Amendments

**F70** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### 44 Proposals as to ownership and management of landlord's land.

- (1) During the moratorium (see sections 42 and 43) the [F71Relevant Authority] may make proposals as to the future ownership and management of the land held by the registered social landlord, designed to secure the continued proper management of the landlord's land by a registered social landlord.
- (2) In drawing up its proposals the [F71Relevant Authority]—
- (a) shall consult the landlord and, so far as is practicable, its tenants, and
  - (b) shall have regard to the interests of all the landlord's creditors, both secured and unsecured.
- (3) The [F71Relevant Authority] shall also consult—
- (a) where the landlord is an industrial and provident society, the appropriate registrar, and
  - (b) where the landlord is a registered charity, the Charity Commissioners.
- (4) No proposals shall be made under which—
- (a) a preferential debt of the landlord is to be paid otherwise than in priority to debts which are not preferential debts, or

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- (b) a preferential creditor is to be paid a smaller proportion of his preferential debt than another preferential creditor, except with the concurrence of the creditor concerned.

In this subsection references to preferential debts and preferential creditors have the same meaning as in the <sup>M24</sup>Insolvency Act 1986.

- (5) So far as practicable no proposals shall be made which have the effect that unsecured creditors of the landlord are in a worse position than they would otherwise be.
- (6) Where the landlord is a charity the proposals shall not require the landlord to act outside the terms of its trusts, and any disposal of housing accommodation occupied under a tenancy or licence from the landlord must be to another charity whose objects appear to the [<sup>F71</sup>Relevant Authority] to be, as nearly as practicable, akin to those of the landlord.
- (7) The [<sup>F71</sup>Relevant Authority] shall serve a copy of its proposals on—
- (a) the landlord and its officers,
  - (b) the secured creditors of the landlord, and
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

#### Textual Amendments

**F71** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### Marginal Citations

**M24** 1986 c. 45.

## 45 Effect of agreed proposals.

- (1) The following provisions apply if proposals made by the [<sup>F72</sup>Relevant Authority] under section 44 are agreed, with or without modifications, by all the secured creditors of the registered social landlord.
- (2) Once agreed the proposals are binding on the [<sup>F72</sup>Relevant Authority], the landlord, all the landlord's creditors (whether secured or unsecured) and any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land.
- (3) It is the duty of—
- (a) the members of the committee where the landlord is an industrial and provident society,
  - (b) the directors where the landlord is a company registered under the <sup>M25</sup>Companies Act 1985 (including a company which is a registered charity), and
  - (c) the trustees where the landlord is a charitable trust,
- to co-operate in the implementation of the proposals.

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This does not mean that they have to do anything contrary to any fiduciary or other duty owed by them.

- (4) The [<sup>F72</sup>Relevant Authority] shall serve a copy of the agreed proposals on—
- (a) the landlord and its officers,
  - (b) the secured creditors of the landlord, and
  - (c) any liquidator, administrator, administrative receiver or receiver appointed in respect of the landlord or its land, and
  - (d) where the landlord is an industrial and provident society or registered charity, the [<sup>F73</sup>Financial Services Authority] or the Charity Commissioners, as the case may be;

and it shall make such arrangements as it considers appropriate to see that the members, tenants and unsecured creditors of the landlord are informed of the proposals.

- (5) The proposals may subsequently be amended with the consent of the [<sup>F72</sup>Relevant Authority] and all the landlord's secured creditors.

Section 44(2) to (7) and subsections (2) to (4) above apply in relation to the amended proposals as in relation to the original proposals.

#### Textual Amendments

**F72** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.

**F73** Words in s. 45(4)(d) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 354**

#### Marginal Citations

**M25** 1985 c. 6.

## 46 Appointment of manager to implement agreed proposals.

- (1) Where proposals agreed as mentioned in section 45 so provide, the [<sup>F74</sup>Relevant Authority] may by order <sup>F75</sup> . . . appoint a manager to implement the proposals or such of them as are specified in the order.
- (2) If the landlord is a registered charity, the [<sup>F74</sup>Relevant Authority] shall give notice to the Charity Commissioners of the appointment.
- (3) Where proposals make provision for the appointment of a manager, they shall also provide for the payment of his reasonable remuneration and expenses.
- (4) The [<sup>F74</sup>Relevant Authority] may give the manager directions in relation to the carrying out of his functions.
- (5) The manager may apply to the High Court for directions in relation to any particular matter arising in connection with the carrying out of his functions.

A direction of the court supersedes any direction of the [<sup>F74</sup>Relevant Authority] in respect of the same matter.

- (6) If a vacancy occurs by death, resignation or otherwise in the office of manager, the [<sup>F74</sup>Relevant Authority] may by further order <sup>F75</sup> . . . fill the vacancy.

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[<sup>F76</sup>(7) An order under this section—

- (a) if made by the Housing Corporation, shall be made under its seal, and
- (b) if made by the Secretary of State, shall be made in writing.]

#### Textual Amendments

- F74** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F75** Words in s. 46(1)(6) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 88(2), **Sch. 18 Pt.VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F76** S. 46(7) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 88(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### 47 Powers of the manager.

- (1) An order under section 46(1) shall confer on the manager power generally to do all such things as are necessary for carrying out his functions.
- (2) The order may include the following specific powers—
  - (1) Power to take possession of the land held by the landlord and for that purpose to take any legal proceedings which seem to him expedient.
  - (2) Power to sell or otherwise dispose of the land by public auction or private contract.
  - (3) Power to raise or borrow money and for that purpose to grant security over the land.
  - (4) Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.
  - (5) Power to bring or defend legal proceedings relating to the land in the name and on behalf of the landlord.
  - (6) Power to refer to arbitration any question affecting the land.
  - (7) Power to effect and maintain insurance in respect of the land.
  - (8) Power where the landlord is a body corporate to use the seal of the body corporate for purposes relating to the land.
  - (9) Power to do all acts and to execute in the name and on behalf of the landlord any deed, receipt or other document relating to the land.
  - (10) Power to appoint an agent to do anything which he is unable to do for himself or which can more conveniently be done by an agent, and power to employ and dismiss any employees.
  - (11) Power to do all such things (including the carrying out of works) as may be necessary in connection with the management or transfer of the land.
  - (12) Power to make any payment which is necessary or incidental to the performance of his functions.
  - (13) Power to carry on the business of the landlord so far as relating to the management or transfer of the land.



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- (14) Power to grant or accept a surrender of a lease or tenancy of any of the land, and to take a lease or tenancy of any property required or convenient for the landlord's housing activities.
- (15) Power to make any arrangement or compromise on behalf of the landlord in relation to the management or transfer of the land.
- (16) Power to do all other things incidental to the exercise of any of the above powers.
  - (3) In carrying out his functions the manager acts as the landlord's agent and he is not personally liable on a contract which he enters into as manager.
  - (4) A person dealing with the manager in good faith and for value is not concerned to inquire whether the manager is acting within his powers.
  - (5) The manager shall, so far as practicable, consult the landlord's tenants about any exercise of his powers which is likely to affect them and inform them about any such exercise of his powers.

#### **48 Powers of the manager: transfer of engagements.**

- (1) An order under section 46(1) may, where the landlord is an industrial and provident society, give the manager power to make and execute on behalf of the society an instrument transferring the engagements of the society.
- (2) Any such instrument has the same effect as a transfer of engagements under section 51 or 52 of the <sup>M26</sup>Industrial and Provident Societies Act 1965 (transfer of engagements by special resolution to another society or a company).

In particular, its effect is subject to section 54 of that Act (saving for rights of creditors).

- (3) A copy of the instrument, signed by the manager, shall be sent to the [<sup>F77</sup>Financial Services Authority and registered by it]; and until that copy is so registered the instrument shall not take effect.
- (4) It is the duty of the manager to send a copy for registration within 14 days from the day on which the instrument is executed; but this does not invalidate registration after that time.

#### **Textual Amendments**

**F77** Words in s. 48(3) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 355](#)

#### **Marginal Citations**

**M26** [1965 c. 12.](#)

#### **49 Assistance by the [<sup>F78</sup>Relevant Authority].**

- (1) The [<sup>F78</sup>Relevant Authority] may give such assistance as it thinks fit—
  - (a) to the landlord, for the purpose of preserving the position pending the making of and agreement to proposals;
  - (b) to the landlord or a manager appointed under section 46, for the purpose of carrying out any agreed proposals.
- (2) The [<sup>F78</sup>Relevant Authority] may, in particular—

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- (a) lend staff;
  - (b) pay or secure payment of the manager's reasonable remuneration and expenses;
  - (c) give such financial assistance as appears to the [<sup>F78</sup>Relevant Authority] to be appropriate.
- (3) The [<sup>F79</sup>giving by the Housing Corporation of the following forms of assistance requires] the consent of the Secretary of State—
- (a) making grants or loans;
  - (b) agreeing to indemnify the manager in respect of liabilities incurred or loss or damage sustained by him in connection with his functions;
  - (c) paying or guaranteeing the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed (before or after the making of the order) and secured on any land disposed of.

#### Textual Amendments

**F78** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F79** Words in s. 49(3) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.89** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

## 50 Application to court to secure compliance with agreed proposals.

- (1) The landlord or any creditor of the landlord may apply to the High Court on the ground that an action of the manager appointed under section 46 is not in accordance with the agreed proposals.

On such an application the court may confirm, reverse or modify any act or decision of the manager, give him directions or make such other order as it thinks fit.

- (2) The [<sup>F80</sup>Relevant Authority] or any other person bound by agreed proposals may apply to the High Court on the ground that any action, or proposed action, by another person bound by the proposals is not in accordance with those proposals.

On such an application the court may—

- (a) declare any such action to be ineffective, and
- (b) grant such relief by way of injunction, damages or otherwise as appears to the court appropriate.

#### Textual Amendments

**F80** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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## CHAPTER V

### MISCELLANEOUS AND GENERAL PROVISIONS

#### *Housing complaints*

#### **51 Schemes for investigation of complaints.**

- (1) The provisions of Schedule 2 have effect for the purpose of enabling tenants and other individuals to have complaints against social landlords investigated by a housing ombudsman in accordance with a scheme approved by the Secretary of State.
- (2) For the purposes of that Schedule a “social landlord” means—
  - (a) a registered social landlord [<sup>F81</sup>or a body which was at any time a registered social landlord];
  - (b) a transferee of housing pursuant to a qualifying disposal under section 135 of the <sup>M27</sup>Leasehold Reform, Housing and Urban Development Act 1993;
  - (c) a body which has acquired dwellings under Part IV of the <sup>M28</sup>Housing Act 1988 (change of landlord: secure tenants); or
  - (d) any other body which was at any time registered with the [<sup>F82</sup>Housing Corporation, or with Housing for Wales,] and which owns or manages publicly-funded dwellings.
- (3) In subsection (2)(d) a “publicly-funded dwelling” means a dwelling which was—
  - (a) provided by means of a grant under—
    - section 18 of this Act (social housing grant), or
    - section 50 of the Housing Act 1988, section 41 of the <sup>M29</sup>Housing Associations Act 1985, or section 29 or 29A of the <sup>M30</sup>Housing Act 1974 (housing association grant); or
  - (b) acquired on a disposal by a public sector landlord.
- (4) The Secretary of State may by order add to or amend the descriptions of landlords who are to be treated as social landlords for the purposes of Schedule 2.
- (5) Before making any such order the Secretary of State shall consult such persons as he considers appropriate.
- (6) Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

- F81** Words in s. 51(2)(a) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 90(a)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F82** Words in s. 51(2)(d) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 90(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

#### **Commencement Information**

- I15** S. 51 wholly in force 1.4.1997; s. 51 not in force at Royal Assent see s. 232(3); s.51 in force for certain purposes at 1.8.1996 by S.I. 1996/2048, **art. 2**; s. 51(1) in force so far as not already in force and 51(2)-(6) in force at 1.4.1997 by S.I. 1997/618, **art. 2** (subject to the limitation in (2) of that art.)

*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

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#### Marginal Citations

- M27** 1993 c. 28.
- M28** 1988 c. 50.
- M29** 1985 c. 69.
- M30** 1974 c. 44.

### [<sup>F83</sup> 51A Social Housing Ombudsman for Wales

- (1) For the purpose of the investigation of complaints made about social landlords in Wales, there shall be an office of Social Housing Ombudsman for Wales or Ombwdsmon Tai Cymdeithasol Cymru.
- (2) The person who is the Local Commissioner for Wales shall also be the Social Housing Ombudsman for Wales.
- (3) If there is more than one person who is a Local Commissioner for Wales, the Commission for Local Administration in Wales shall designate one of them to be the Social Housing Ombudsman for Wales.
- (4) If a person who is the Social Housing Ombudsman for Wales ceases to be a Local Commissioner for Wales, he shall cease to be the Social Housing Ombudsman for Wales.
- (5) The power under section 23(6) of the Local Government Act 1974 to remove a Local Commissioner for Wales from office on grounds of incapacity or misbehaviour includes a power to remove him from that office on grounds of incapacity or misbehaviour which are exclusively or partly relevant to the office of Social Housing Ombudsman for Wales.
- (6) “Local Commissioner for Wales” shall be construed in accordance with section 23 of the Local Government Act 1974.
- (7) Schedule 2A (which contains further provision about the Social Housing Ombudsman for Wales) shall have effect.

#### Textual Amendments

- F83** Ss. 51A-51C inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 228, 270(2)** (b)

### 51B Investigation of complaints

- (1) The National Assembly for Wales may by regulations make provision about the investigation by the Social Housing Ombudsman for Wales of complaints made about social landlords in Wales.
- (2) Regulations under subsection (1) may in particular make provision about—
  - (a) the matters about which complaints may be made;
  - (b) the grounds on which a matter may be excluded from investigation, including that the matter is the subject of court proceedings or was the subject of court proceedings where judgment on the merits was given;
  - (c) the description of individual who may make a complaint;

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- (d) a power of the Social Housing Ombudsman for Wales to investigate any complaint duly made (whether the complaint is subsequently withdrawn or not), and, where he investigates, the making of a determination;
  - (e) a power of the Social Housing Ombudsman for Wales to propose alternative methods of resolving a dispute;
  - (f) the powers of the Social Housing Ombudsman for Wales for the purposes of his investigations (including powers to consult and co-operate with other persons), and the procedure to be followed in the conduct of investigations;
  - (g) the powers of the Social Housing Ombudsman for Wales on making a determination, which may include power—
    - (i) to make recommendations as to action to be taken to remedy any injustice to the person aggrieved and to prevent any similar injustice being caused in the future,
    - (ii) to make orders with regard to the payment of compensation or to order that a person is not to exercise, or require the performance of, certain rights or obligations, and
    - (iii) to publish statements, or to make orders requiring the publication of statements, that a person has failed to comply with an order mentioned in sub-paragraph (ii);
  - (h) the manner in which determinations are to be—
    - (i) communicated to the complainant and the person against whom the complaint was made; and
    - (ii) published (with or without excisions).
- (3) Regulations under this section may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.
- (4) Regulations under this section may make different provision for different cases or descriptions of case.
- (5) Regulations under this section shall be made by statutory instrument.

#### Textual Amendments

**F83** Ss. 51A-51C inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 228, 270(2)**  
(b)

### 51C Meaning of “social landlord in Wales”

- (1) “Social landlord in Wales” means—
- (a) a body which is registered as a social landlord in the register maintained by the National Assembly for Wales under section 1 of this Act;
  - (b) a body which was at any time registered as a social landlord in that register (or in the register previously maintained under that section by the Secretary of State or Housing for Wales); and
  - (c) any other body which was at any time registered with Housing for Wales, the Secretary of State or the National Assembly for Wales and which owns or manages publicly-funded dwellings.
- (2) In subsection (1)(c) a “publicly-funded” dwelling means a dwelling which was—

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- (a) provided by means of a grant under—
    - (i) section 18 of this Act (social housing grant); or
    - (ii) section 50 of the Housing Act 1988, section 41 of the Housing Associations Act 1985, or section 29 or 29A of the Housing Act 1974 (housing association grant); or
  - (b) acquired on a disposal by a public sector landlord.
- (3) The National Assembly for Wales may by order made by statutory instrument add to or amend the descriptions of landlords who are to be treated as social landlords in Wales.
  - (4) Before making any such order the National Assembly for Wales shall consult such persons as it considers appropriate.
  - (5) Any such order may contain such supplementary, incidental, consequential or transitional provisions and savings as the National Assembly for Wales considers appropriate.]

#### Textual Amendments

**F83** Ss. 51A-51C inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 228, 270(2)** (b)

### *Orders and determinations*

#### **52 General provisions as to orders.**

- (1) The following provisions apply to any power of the Secretary of State under [<sup>F84</sup>section 2, 17, 39, 51 or 55 or Schedule 2] to make an order.
- (2) An order may make different provision for different cases or descriptions of case.  
  
This includes power to make different provision for different bodies or descriptions of body, different provision for different housing activities and different provision for different areas.
- (3) An order may contain such supplementary, incidental, consequential or transitional provisions and savings as the Secretary of State considers appropriate.

#### Textual Amendments

**F84** Words in s. 52(1) substituted (1.11.1998) by [1998 c. 38, s. 140](#), **Sch. 16 para.91** (with [ss. 139\(2\), 141\(1\), 143\(2\)](#)); [S.I. 1998/2244](#), **art.5**.

#### **53 General provisions as to determinations.**

- (1) The following provisions apply to determinations of the [<sup>F85</sup>Housing Corporation] or the Secretary of State under this Part.
- (2) A determination may make different provision for different cases or descriptions of case.

This includes power to make—

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- (a) different provision for different registered social landlords or descriptions of registered social landlord, and
- (b) different provision for different housing activities and different provision for different areas;

and for the purposes of paragraph (b) descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.

- (3) In this Part a general determination means a determination which does not relate solely to a particular case.
- (4) Before making a general determination, the [<sup>F85</sup>Housing Corporation] or the Secretary of State shall consult such bodies appearing to them to be representative of registered social landlords as they consider appropriate.
- (5) After making a general determination, the [<sup>F85</sup>Housing Corporation] or the Secretary of State shall publish the determination in such manner as they consider appropriate for bringing the determination to the notice of the landlords concerned.

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**Textual Amendments**

**F85** Words in s. 53(1)(4)(5) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.92** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**54 Determinations of the [Housing Corporation] requiring approval.**

The [<sup>F86</sup>Housing Corporation] shall not make—

- (a) a general determination under paragraph 16 of Schedule 1 (accounting and audit requirements for registered social landlords) or section 18 (social housing grant), or
- (b) any determination under section 27 (recovery, &c. of social housing grants), except with the approval of the Secretary of State.

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**Textual Amendments**

**F86** Words in s. 54 substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para.93** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

*Minor and consequential amendments*

**55 Minor and consequential amendments: Part I.**

- (1) The enactments mentioned in Schedule 3 have effect with the minor amendments specified there.
- (2) The Secretary of State may by order make such amendments or repeals of any enactment as appear to him necessary or expedient in consequence of the provisions of this Part.
- (3) Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### Commencement Information

- I16** S. 55 wholly in force 1.4.1997; s. 55 not in force at Royal Assent see s. 232(3); s. 55(1) in force for certain purposes and s. 55(2)(3) wholly in force at 1.8.1996 by [S.I. 1996/2048](#), artS. 2, 4; s. 55(1) in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (subject to the transitional provisions and savings in [Sch. para. 1](#)) and in force at 1.4.1997 to the extent it is not already in force by [S.I. 1997/618](#), [art. 2](#) (subject to the limitation in (2) of that art.)

### Interpretation

#### 56 Meaning of “the [<sup>F87</sup> Relevant Authority]”.

- (1) In this Part “the [<sup>F87</sup> Relevant Authority]” means the Housing Corporation or [<sup>F88</sup>the Secretary of State], as follows.
- (2) In relation to a registered social landlord, or a body applying for such registration, which is—
  - (a) a registered charity which has its address for the purposes of registration by the Charity Commissioners in Wales,
  - (b) an industrial and provident society which has its registered office for the purposes of the <sup>M31</sup>Industrial and Provident Societies Act 1965 in Wales, or
  - (c) a company registered under the <sup>M32</sup>Companies Act 1985 which has its registered office for the purposes of that Act in Wales,
 “the [<sup>F87</sup> Relevant Authority]” means [<sup>F88</sup>the Secretary of State].
- (3) In relation to any other registered social landlord or body applying for such registration, “the [<sup>F87</sup> Relevant Authority]” means the Housing Corporation.
- (4) Nothing in this Part shall be construed as requiring the Housing Corporation and [<sup>F88</sup>the Secretary of State] to establish the same criteria for registration as a social landlord, or otherwise to act on the same principles in respect of any matter in relation to which they have functions under this Part.

### Textual Amendments

- F87** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, [Sch. 16 para. 82\(1\)\(2\)](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), [art.5](#).
- F88** Words in s. 56(1)(2)(4) substituted (1.11.1998) by 1998 c. 38, s. 140, [Sch. 16 para.94](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), [art.5](#).

### Marginal Citations

- M31** 1965 c. 12.  
**M32** 1985 c. 6.

#### 57 Definitions relating to industrial and provident societies.

- (1) In this Part, in relation to an industrial and provident society—

<sup>F89</sup>



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“committee” means the committee of management or other directing body of the society; and

“co-opted member”, in relation to the committee, includes any person co-opted to serve on the committee, whether he is a member of the society or not.

- (2) Any reference in this Part to a member of the committee of an industrial and provident society includes a co-opted member.

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#### Textual Amendments

**F89** Definition of “appropriate registrar” in s. 57(1) repealed (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 356\(1\)](#)

### 58 Definitions relating to charities.

- (1) In this Part—

- (a) “charity” and “trusts”, in relation to a charity, have the same meaning as in the <sup>M33</sup>Charities Act 1993, and “trustee” means a charitable trustee within the meaning of that Act; and
- (b) “registered charity” means a charity which is registered under section 3 of that Act and is not an exempt charity within the meaning of that Act.

- (2) References in this Part to a company registered under the <sup>M34</sup>Companies Act 1985 do not include a company which is a registered charity, except where otherwise provided.

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#### Marginal Citations

**M33** 1993 c. 10.

**M34** 1985 c. 6.

### 59 Meaning of “officer” of registered social landlord.

- (1) References in this Part to an officer of a registered social landlord are—

- (a) in the case of a registered charity which is not a company registered under the Companies Act 1985, to any trustee, secretary or treasurer of the charity;
- (b) in the case of an industrial and provident society, to any officer of the society as defined in section 74 of the <sup>M35</sup>Industrial and Provident Societies Act 1965; and
- (c) in the case of a company registered under the Companies Act 1985 (including such a company which is also a registered charity), to any director or other officer of the company within the meaning of that Act.

- (2) Any such reference includes, in the case of an industrial and provident society, a co-opted member of the committee of the society.

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#### Marginal Citations

**M35** 1965 c. 12.

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## 60 Meaning of “subsidiary”.

- (1) In this Part “subsidiary”, in relation to a registered social landlord, means a company with respect to which one of the following conditions is fulfilled—
- (a) the landlord is a member of the company and controls the composition of the board of directors;
  - (b) the landlord holds more than half in nominal value of the company’s equity share capital; or
  - (c) the company is a subsidiary, within the meaning of the Companies Act 1985 or the <sup>M36</sup>Friendly and Industrial and Provident Societies Act 1968, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the landlord.
- (2) For the purposes of subsection (1)(a), the composition of a company’s board of directors shall be deemed to be controlled by a registered social landlord if, but only if, the landlord, by the exercise of some power exercisable by him without the consent or concurrence of any other person, can appoint or remove the holders of all or a majority of the directorships.
- (3) In relation to a company which is an industrial and provident society—
- (a) any reference in this section to the board of directors is a reference to the committee of management of the society; and
  - (b) the reference in subsection (2) to the holders of all or a majority of the directorships is a reference—
    - (i) to all or a majority of the members of the committee, or
    - (ii) if the landlord is himself a member of the committee, such number as together with him would constitute a majority.
- (4) In the case of a registered social landlord which is a body of trustees, references in this section to the landlord are to the trustees acting as such.

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### Marginal Citations

**M36** 1968 c. 55.

## 61 Meaning of “associate”.

- (1) In this Part “associate”, in relation to a registered social landlord, means—
- (a) any body of which the landlord is a subsidiary, and
  - (b) any other subsidiary of such a body.
- (2) In this section “subsidiary” has the same meaning as in the <sup>M37</sup>Companies Act 1985 or the <sup>M38</sup>Friendly and Industrial and Provident Societies Act 1968 or, in the case of a body which is itself a registered social landlord, has the meaning given by section 60.

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### Marginal Citations

**M37** 1985 c. 6.

**M38** 1968 c. 55.

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## **62 Members of a person’s family: Part I.**

- (1) A person is a member of another’s family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
  - (c) the stepchild of a person shall be treated as his child.

## **63 Minor definitions: Part I.**

- (1) In this Part—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“fully mutual”, in relation to a housing association, and “co-operative housing association” have the same meaning as in the <sup>M39</sup>Housing Associations Act 1985 (see section 1(2) of that Act);

“hostel” means a building in which is provided for persons generally or for a class or classes of persons—

- (a) residential accommodation otherwise than in separate and self-contained premises, and
- (b) either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“house” includes—

- (a) any part of a building occupied or intended to be occupied as a separate dwelling, and
- (b) any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“housing accommodation” includes flats, lodging-houses and hostels;

“housing activities” means, in relation to a registered social landlord, all its activities in pursuance of the purposes, objects and powers mentioned in or specified under section 2;

“information” includes accounts, estimates and returns;

“local authority” has the same meaning as in the <sup>M40</sup>Housing Associations Act 1985;

“long tenancy” has the same meaning as in Part V of the <sup>M41</sup>Housing Act 1985;

“modifications” includes additions, alterations and omissions and cognate expressions shall be construed accordingly;

“notice” means notice in writing;

“public sector landlord” means any of the authorities or bodies within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies);

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“registrar of companies” has the same meaning as in the <sup>M42</sup>Companies Act 1985;

“statutory tenancy” has the same meaning as in the Housing Act 1985.

- (2) References in this Part to the provision of a dwelling or house include the provision of a dwelling or house—
- (a) by erecting the dwelling or house, or converting a building into dwellings or a house, or
  - (b) by altering, enlarging, repairing or improving an existing dwelling or house;
- and references to a dwelling or house provided by means of a grant or other financial assistance are to its being so provided directly or indirectly.

#### Marginal Citations

**M39** 1985 c. 69.

**M40** 1985 c. 69.

**M41** 1985 c. 68.

**M42** 1985 c. 6.

## 64 Index of defined expressions: Part I.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section)—

appointed person (in relation to inquiry into affairs of registered social landlord)	paragraph 20 of Schedule 1
<b>F90</b>	<b>F90</b>
...	...
associate (in relation to a registered social landlord)	section 61(1)
assured tenancy	section 230
assured agricultural occupancy	section 230
assured shorthold tenancy	section 230
charity	section 58(1)(a)
committee member (in relation to an industrial and provident society)	section 57(2)
company registered under the Companies Act 1985	section 58(2)
co-operative housing association	section 63
co-opted member (of committee of industrial and provident society)	section 57(1)
<b>F91</b>	<b>F91</b>
...	...
disposal proceeds fund	section 24

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dwelling	section 63
enactment	section 230
fully mutual housing association	section 63
hostel	section 63
house	section 63
housing accommodation	section 63
housing activities	section 63
housing association	section 230
industrial and provident society	section 2(1)(b)
information	section 63
lease	section 229
local authority	section 63
long tenancy	section 63
member of family	section 62
modifications	section 63
notice	section 63
officer of registered social landlord	section 59
provision (in relation to dwelling or house)	section 63(2)
public sector landlord	section 63
register, registered and registration (in relation to social landlords)	section 1
registered charity	section 58(1)(b)
registrar of companies	section 63
[ <sup>F92</sup> the Relevant Authority]	[section 56]
relevant disposal which is not an exempted disposal (in sections 11 to 14)	section 15
secure tenancy	section 230
social housing grant	section 18(1)
statutory tenancy	section 63
subsidiary (in relation to a registered social landlord)	section 60(1)
trustee and trusts (in relation to a charity)	section 58(1)(a)

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#### Textual Amendments

**F90** S. 64: Entry relating to “appropriate registrar” in the Table repealed (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 356\(2\)](#)

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- F91** Entry in s. 64 repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 95(a), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F92** Entry in s. 64 inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 95(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.

## PART II

### HOUSES IN MULTIPLE OCCUPATION

#### *Registration schemes*

#### 65 Making and approval of registration schemes.

- (1) In Part XI of the <sup>M43</sup>Housing Act 1985 (houses in multiple occupation), for section 346 (registration schemes) substitute—

**“346 Registration schemes.**

- (1) A local housing authority may make a registration scheme authorising the authority to compile and maintain a register for their district of houses in multiple occupation.
- (2) A registration scheme need not be for the whole of the authority’s district and need not apply to every description of house in multiple occupation.
- (3) A registration scheme may vary or revoke a previous registration scheme; and the local housing authority may at any time by order revoke a registration scheme.

**346A Contents of registration scheme.**

- (1) A registration scheme shall make it the duty of such person as may be specified by the scheme to register a house to which the scheme applies and to renew the registration as and when required by the scheme.
- (2) A registration scheme shall provide that registration under the scheme—
- (a) shall be for a period of five years from the date of first registration, and
- (b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of five years at a time.
- (3) A registration scheme may—
- (a) specify the particulars to be inserted in the register,
- (b) make it the duty of such persons as may be specified by the scheme to give the authority as regards a house all or any of the particulars specified in the scheme,
- (c) make it the duty of such persons as may be specified by the scheme to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards a house.
- (4) A registration scheme shall, subject to subsection (5)—

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- (a) require the payment on first registration of a reasonable fee of an amount determined by the local housing authority, and
  - (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.
- (5) The Secretary of State may by order make provision as to the fee payable on registration—
- (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
  - (b) specifying cases in which no fee is payable.
- (6) An order under subsection (5)—
- (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **346B Model schemes and confirmation of schemes.**

- (1) The Secretary of State may prepare model registration schemes.
  - (2) Model registration schemes may be prepared with or without control provisions (see section 347) or special control provisions (see section 348B); and different model schemes may be prepared for different descriptions of authorities and for different areas.
  - (3) A registration scheme which conforms to a model scheme—
    - (a) does not require confirmation by the Secretary of State, and
    - (b) comes into force on such date (at least one month after the making of the scheme) as may be specified in the scheme.
  - (4) Any other registration scheme does not come into force unless and until confirmed by the Secretary of State.
  - (5) The Secretary of State may if he thinks fit confirm such a scheme with or without modifications.
  - (6) A scheme requiring confirmation shall not come into force before it has been confirmed but, subject to that, comes into force on such date as may be specified in the scheme or, if no date is specified, one month after it is confirmed.”
- (2) In section 351(1) of the <sup>M44</sup>Housing Act 1985 (proof of matters relating to registration scheme), in paragraph (c) at the beginning insert “ that the scheme did not require confirmation by the Secretary of State or ”.

#### **Commencement Information**

- I17** S. 65 wholly in force 3.3.1997: s. 65 not in force at Royal Assent, see s. 232(1)-(3); s. 65 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#), and in force at 3.3.1997 so far as not already in force, by [S.I. 1997/350](#), [art. 2](#)

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*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Housing Act 1996 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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#### **Marginal Citations**

**M43** 1985 c. 68.

**M44** 1985 c. 68.

## **66 Registration schemes: control provisions.**

In Part XI of the Housing Act 1985 (houses in multiple occupation), for sections 347 and 348 (registration schemes: control provisions) substitute—

### **“347 Control provisions.**

- (1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—
  - (a) the house is registered, and
  - (b) the number of households or persons occupying it does not exceed the number registered for it.
- (2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.
- (3) Control provisions shall not prevent the occupation of a house by a greater number of households or persons than the number registered for it if all of those households or persons have been in occupation of the house without interruption since before the number was first registered.

### **348 Control provisions: decisions on applications and appeals.**

- (1) Control provisions may enable the local housing authority, on an application for first registration of a house or a renewal or variation of registration—
  - (a) to refuse the application on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted if the application were granted;
  - (b) to refuse the application on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
  - (c) to require as a condition of granting the application that such works as will make the house suitable for such occupation as would be permitted if the application were granted are executed within such time as the authority may determine;
  - (d) to impose such conditions relating to the management of the house during the period of registration as the authority may determine.
- (2) Control provisions shall provide that the local housing authority shall give an applicant a written statement of their reasons where they—
  - (a) refuse to grant his application for first registration or for a renewal or variation of registration,
  - (b) require the execution of works as a condition of granting such an application, or
  - (c) impose conditions relating to the management of the house.



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- (3) Where the local housing authority—
- (a) notify an applicant that they refuse to grant his application for first registration or for the renewal or variation of a registration,
  - (b) notify an applicant that they require the execution of works as a condition of granting such an application,
  - (c) notify an applicant that they intend to impose conditions relating to the management of the house, or
  - (d) do not within five weeks of receiving the application, or such longer period as may be agreed in writing between the authority and the applicant, register the house or vary or renew the registration in accordance with the application,
- the applicant may, within 21 days of being so notified or of the end of the period mentioned in paragraph (d), or such longer period as the authority may in writing allow, appeal to the county court.
- (4) On appeal the court may confirm, reverse or vary the decision of the authority.
- (5) Where the decision of the authority was a refusal—
- (a) to grant an application for first registration of a house, or
  - (b) for the renewal or variation of the registration,
- the court may direct the authority to grant the application as made or as varied in such manner as the court may direct.
- (6) For the purposes of subsections (4) and (5) an appeal under subsection (3)(d) shall be treated as an appeal against a decision of the authority to refuse the application.
- (7) Where the decision of the authority was to impose conditions relating to the management of the house, the court may direct the authority to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

### **348A Control provisions: other decisions and appeals.**

- (1) Control provisions may enable the local housing authority at any time during a period of registration (whether or not an application has been made)—
- (a) to alter the number of households or persons for which a house is registered or revoke the registration on the ground that the house is unsuitable and incapable of being made suitable for such occupation as is permitted by virtue of the registration; or
  - (b) to alter the number of households or persons for which a house is registered or revoke the registration unless such works are executed within a specified time as will make the house in question suitable for such occupation as is permitted by virtue of the registration.
- (2) Control provisions which confer on a local housing authority any such power as is mentioned in subsection (1) shall provide that the authority shall, in deciding whether to exercise the power, apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.

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- (3) Control provisions may enable the local housing authority to revoke a registration if they consider that—
  - (a) the person having control of the house or the person managing it is not a fit and proper person, or
  - (b) there has been a breach of conditions relating to the management of the house.
- (4) Control provisions shall also provide that the local housing authority shall—
  - (a) notify the person having control of a house and the person managing it of any decision by the authority to exercise a power mentioned in subsection (1) or (3) in relation to the house, and
  - (b) at the same time give them a written statement of the authority's reasons.
- (5) A person who has been so notified may within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.
- (6) On appeal the court may confirm, reverse or vary the decision of the authority.”.

#### Commencement Information

**I18** S. 66 wholly in force 3.3.1997: s. 66 not in force at Royal Assent, see s. 232(1)-(3); s. 66 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402, art. 4](#), and in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350, art. 2](#)

#### 67 Registration schemes: special control provisions.

- (1) In Part XI of the <sup>M45</sup>Housing Act 1985 (houses in multiple occupation), after section 348A (as inserted by section 66 above) insert—

##### “348B Special control provisions.

- (1) A registration scheme which contains control provisions may also contain special control provisions, that is, provisions for preventing houses in multiple occupation, by reason of their existence or the behaviour of their residents, from adversely affecting the amenity or character of the area in which they are situated.
- (2) Special control provisions may provide for the refusal or revocation of registration, for reducing the number of households or persons for which a house is registered and for imposing conditions of registration.
- (3) The conditions of registration may include conditions relating to the management of the house or the behaviour of its occupants.
- (4) Special control provisions may authorise the revocation of registration in the case of—
  - (a) occupation of the house by more households or persons than the registration permits, or
  - (b) a breach of any condition imposed in pursuance of the special control provisions,

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which is due to a relevant management failure.

- (5) Special control provisions shall not authorise the refusal of—
- (a) an application for first registration of a house which has been in operation as a house in multiple occupation since before the introduction by the local housing authority of a registration scheme with special control provisions, or
  - (b) any application for renewal of registration of a house previously registered under such a scheme,
- unless there has been a relevant management failure.
- (6) Special control provisions may provide that in any other case where an application is made for first registration of a house the local housing authority may take into account the number of houses in multiple occupation in the vicinity in deciding whether to permit or refuse registration.

### **348C Special control provisions: general provisions as to decisions and appeals.**

- (1) Special control provisions shall provide that the local housing authority shall give a written statement of their reasons to the applicant where they refuse to grant his application for first registration, or for a renewal or variation of a registration, or impose conditions of registration on such an application.
- (2) Special control provisions shall provide that the authority shall give written notice to the person having control of the house and the person managing it of any decision by the authority—
- (a) to vary the conditions of registration (otherwise than on an application to which subsection (1) applies), or
  - (b) to revoke the registration of the house,
- and at the same time give them a written statement of the authority's reasons.
- (3) Where in accordance with special control provisions the local housing authority—
- (a) notify an applicant that they refuse to grant his application for first registration or for the renewal or variation of a registration,
  - (b) notify such an applicant of the imposition of conditions of registration, or
  - (c) give notice to the person having control or the person managing the house of any such decision as is mentioned in subsection (2),
- that person may, within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.
- (4) If on appeal it appears to the court—
- (a) that there has been any informality, defect or error in, or in connection with, the authority's decision, or
  - (b) that the authority acted unreasonably,
- the court may reverse or vary the decision of the authority.
- (5) In so far as an appeal is based on the ground mentioned in subsection (4)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

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- (6) Where the decision of the authority was a refusal—
  - (a) to grant an application for first registration of a house, or
  - (b) for the renewal or variation of the registration,
 the court may direct the authority to grant the application as made or as varied in such manner as the court may direct.
- (7) Where the decision of the authority was to impose conditions of registration, the court may direct the authority to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

#### **348D Special control provisions: occupancy directions.**

- (1) Special control provisions may provide that where the local housing authority decide that the registration of a house should be revoked the authority may direct that the level of occupation of the house be reduced, within such period of not less than 28 days as they may direct, to a level such that the registration scheme does not apply.

Such a direction is referred to in this Part as an “occupancy direction”.

- (2) Special control provisions shall provide that the authority shall only make an occupancy direction if it appears to the authority that there has been a relevant management failure resulting in a serious adverse effect on the amenity or character of the area in which the house is situated.
- (3) In considering whether to make an occupancy direction the authority shall take into account the interests of the occupants of the house and the person having control of the house as well as the interests of local residents and businesses.
- (4) Special control provisions may require the person having control of the house, and the person managing it, to take all reasonably practicable steps to comply with an occupancy direction.
- (5) Nothing in Part I of the <sup>M46</sup>Housing Act 1988 prevents possession being obtained by any person in order to comply with an occupancy direction.
- (6) Nothing in this section affects any liability in respect of any other contravention or failure to comply with control provisions or special control provisions.

#### **348E Special control provisions: decisions and appeals relating to occupancy directions.**

- (1) Special control provisions shall provide that where the local housing authority make an occupancy direction in respect of a house they shall give written notice of the direction to the person having control of the house and the person managing it and at the same time give them a written statement of the authority’s reasons.
- (2) A person aggrieved by an occupancy direction may, within 21 days after the date of the service of notice as mentioned in subsection (1), appeal to the county court.

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- (3) If on appeal it appears to the court—
- (a) that there has been any informality, defect or error in, or in connection with, the authority’s decision, or
  - (b) that the authority acted unreasonably,
- the court may make such order either confirming, quashing or varying the notice as it thinks fit.
- (4) In so far as an appeal is based on the ground mentioned in subsection (3)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) If an appeal is brought the direction does not become operative until—
- (a) a decision on the appeal confirming the direction (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the direction (with or without variation).
- (6) For this purpose the withdrawal of an appeal has the same effect as a decision confirming the direction or decision appealed against.

**348F Special control provisions: “relevant management failure”.**

A “relevant management failure” for the purposes of sections 348B to 348E (special control provisions) means a failure on the part of the person having control of, or the person managing, a house in multiple occupation to take such steps as are reasonably practicable to prevent the existence of the house or the behaviour of its residents from adversely affecting the amenity or character of the area in which the house is situated, or to reduce any such adverse effect.”.

- (2) In section 400 of the <sup>M47</sup>Housing Act 1985 (index of defined expressions: Part XI), at the appropriate places insert—

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“occupancy direction (in connection with special control provisions)	section 348D
relevant management failure (for purposes of sections 348B to 348E)	section 348F
special control provisions	section 348B”.

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**Marginal Citations**

- M45** 1985 c. 68.  
**M46** 1988 c. 50.  
**M47** 1985 c. 68.

**68 Offences in connection with registration schemes.**

- (1) In Part XI of the Housing Act 1985, after section 348F (as inserted by section 67 above) insert—

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*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

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**“348G Offences in connection with registration schemes.**

- (1) A person who contravenes or fails to comply with a provision of a registration scheme commits an offence.
  - (2) A person who commits an offence under this section consisting of a contravention of so much of control provisions as relates—
    - (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
    - (b) to occupation of a house which is registered by more households or persons than the registration permits,
 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (3) A person who commits an offence under this section consisting of a contravention of so much of special control provisions as requires all reasonably practicable steps to be taken to comply with an occupancy direction is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (4) A person who commits any other offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.
- (2) In section 395(2) of the <sup>M48</sup>Housing Act 1985 (power of entry to ascertain if offence being committed), for “section 346(6)” substitute “ section 348G ”.

**Marginal Citations**

M48 1985 c. 68.

**69 Information requirements in connection with registration schemes.**

- (1) In Part XI of the Housing Act 1985 (houses in multiple occupation), for section 349 (steps required to inform public about registration schemes) substitute—

**“349 Steps required to inform public about schemes.**

- (1) Where a local housing authority intend to make a registration scheme which does not require confirmation by the Secretary of State, they shall publish notice of their intention at least one month before the scheme is made.  
  
 As soon as the scheme is made, the local housing authority shall publish a notice stating—
  - (a) that a registration scheme which does not require confirmation has been made, and
  - (b) the date on which the scheme is to come into force.
- (2) Where a local housing authority intend to submit to the Secretary of State a registration scheme which requires his confirmation, they shall publish notice of their intention at least one month before the scheme is submitted.

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As soon as the scheme is confirmed, the local housing authority shall publish a notice stating—

- (a) that a registration scheme has been confirmed, and
  - (b) the date on which the scheme is to come into force.
- (3) A notice under subsection (1) or (2) of the authority’s intention to make a scheme or submit a scheme for confirmation shall—
- (a) describe any steps which will have to be taken under the scheme by those concerned with registrable houses (other than steps which have only to be taken after a notice from the authority), and
  - (b) name a place where a copy of the scheme may be seen at all reasonable hours.
- (4) After publication of notice under subsection (1) or (2) that a registration scheme has been made or confirmed, and for as long as the scheme is in force, the local housing authority—
- (a) shall keep a copy of the scheme, and of the register, available for public inspection at the offices of the authority free of charge at all reasonable hours, and
  - (b) on request, and on payment of such reasonable fee as the authority may require, shall supply a copy of the scheme or the register, or of any entry in the register, to any person.
- (5) If the local housing authority revoke a registration scheme by order they shall publish notice of the order.
- (6) In this section “publish” means publish in one or more newspapers circulating in the district of the local housing authority concerned.”
- (2) In section 350(1) of the <sup>M49</sup>Housing Act 1985 (power to require information for purposes of scheme) for the words “a person” substitute “ the person having control of the house or the person managing the house or any person ”.

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**Marginal Citations**

**M49** 1985 c. 68.

## 70 Existing registration schemes.

- (1) The amendments made by sections 65 to 69 do not apply to registration schemes in force immediately before the coming into force of those sections.
- (2) The unamended provisions of Part XI of the Housing Act 1985 continue to apply to such schemes, subject as follows.
- (3) Any such scheme may be revoked—
  - (a) by a new scheme complying with the provisions of that Part as amended, or
  - (b) by order of the local housing authority.
- (4) If not so revoked any such scheme shall cease to have effect at the end of the period of two years beginning with the date on which the amendments come into force.

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*Other amendments of Part XI of the Housing Act 1985*

**71 Restriction on notices requiring execution of works.**

(1) In section 352 of the Housing Act 1985 (power to require execution of works to render premises fit for number of occupants), at end insert—

“(7) Where a local housing authority serve a notice under this section in respect of any of the requirements specified in subsection (1A), and the works specified in the notice are carried out, whether by the person on whom the notice was served or by the local housing authority under section 375, the authority shall not, within the period of five years from the service of the notice, serve another notice under this section in respect of the same requirement unless they consider that there has been a change of circumstances in relation to the premises.

(8) Such a change may, in particular, relate to the condition of the premises or the availability or use of the facilities mentioned in subsection (1A).”.

(2) The above amendment does not apply in relation to a notice served under section 352 of the <sup>M50</sup>Housing Act 1985 before this section comes into force.

**Marginal Citations**

M50 1985 c. 68.

**72 Recovery of expenses of notice requiring execution of works.**

(1) After section 352 of the Housing Act 1985 insert—

**“352A Recovery of expenses of notice under s.352.**

(1) A local housing authority may, as a means of recovering certain administrative and other expenses incurred by them in serving a notice under section 352, make such reasonable charge as they consider appropriate.

(2) The expenses are the expenses incurred in—

- (a) determining whether to serve a notice under that section,
- (b) identifying the works to be specified in the notice, and
- (c) serving the notice.

(3) The amount of the charge shall not exceed such amount as is specified by order of the Secretary of State.

(4) A charge under this section may be recovered by the authority from any person on whom the notice under section 352 is served.

(5) The provisions of Schedule 10 apply to the recovery by the authority of a charge under this section as they apply to the recovery of expenses incurred by the authority under section 375 (expenses of carrying out works required by notice).

(6) An order under this section—



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- (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), 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) This section has effect subject to any order under section 353(6) (power of court on appeal against s.352 notice).”
- (2) In section 353 of that Act (appeal against notice under section 352), after subsection (5) insert—
- “(6) Where the court allows an appeal under this section or makes an order under subsection (5), it may make such order as it thinks fit reducing, quashing or requiring the repayment of any charge under section 352A made in respect of the notice to which the appeal relates.”
- (3) The above amendments do not apply in relation to a notice served under section 352 of the <sup>M51</sup>Housing Act 1985 before this section comes into force.

**Commencement Information**

**I19** S. 72 wholly in force 3.3.1997: s. 72 not in force at Royal Assent, see s. 232(1)-(3); s. 72 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#), and in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350](#), [art. 2](#)

**Marginal Citations**

**M51** [1985 c. 68](#).

PROSPECTIVE

**No** **Duty to keep premises fit for number of occupants.**  
**commentary**  
**item** .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-21363e12850c5046b3cfecb746d4564c73**

**74 Section 354 direction to be local land charge.**

In section 354 of the Housing Act 1985 (power to limit number of occupants of house), at the end insert—

“(8) A direction under this section is a local land charge.”

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## 75 Means of escape from fire.

- (1) Section 365 of the Housing Act 1985 (means of escape from fire: general provisions as to exercise of powers) is amended as follows.
- (2) In subsection (1)(b) (ground for exercise of additional powers) after “paragraph (d)” insert “ or (e) ”.
- (3) For subsection (3) (consultation requirements) substitute—
  - “(3) The local housing authority shall consult with the fire authority concerned before exercising any of the powers mentioned in subsection (2)—
    - (a) where they are under a duty to exercise those powers, or
    - (b) where they are not under such a duty but may exercise those powers and the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection.”.
- (4) In subsection (4) (orders) for “or (2A)” substitute “ , (2A) or (3) ”.
- (5) In subsection (5) (other powers unaffected) omit “and (e)”.

### Commencement Information

**I20** S. 75 wholly in force 3.3.1997: s. 75 not in force at Royal Assent, see s. 232(1)-(3); s. 75 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#), and in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350](#), [art. 2](#)

## 76 Works notices: improvement of enforcement procedures.

After section 377 of the <sup>M52</sup>Housing Act 1985 insert—

### “377A Works notices: improvement of enforcement procedures.

- (1) The Secretary of State may by order provide that a local housing authority shall act as specified in the order before serving a works notice.  
  
 In this section a “works notice” means a notice under section 352 or 372 (notices requiring the execution of works).
- (2) An order under this section may provide that the authority—
  - (a) shall as soon as practicable give to the person on whom the works notice is to be served a written notice which satisfies the requirements of subsection (3); and
  - (b) shall not serve the works notice until after the end of such period beginning with the giving of a notice which satisfies the requirements of subsection (3) as may be determined by or under the order.
- (3) A notice satisfies the requirements of this subsection if it—
  - (a) states the works which in the authority’s opinion should be undertaken, and explains why and within what period;
  - (b) explains the grounds on which it appears to the authority that the works notice might be served;

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- (c) states the type of works notice which is to be served, the consequences of serving it and whether there is a right to make representations before, or a right of appeal against, the serving of it.
- (4) An order under this section may also provide that, before the authority serves the works notice on any person, they—
  - (a) shall give to that person a written notice stating—
    - (i) that they are considering serving the works notice and the reasons why they are considering serving the notice; and
    - (ii) that the person may, within a period specified in the written notice, make written representations to them or, if the person so requests, make oral representations to them in the presence of a person determined by or under the order; and
  - (b) shall consider any representations which are duly made and not withdrawn.
- (5) An order under this section may in particular—
  - (a) make provision as to the consequences of any failure to comply with a provision made by the order;
  - (b) contain such consequential, incidental, supplementary or transitional provisions and savings as the Secretary of State considers appropriate (including provisions modifying enactments relating to the periods within which proceedings must be brought).
- (6) An order 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) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Nothing in any order under this section shall—
  - (a) preclude a local housing authority from serving a works notice on any person, or from requiring any person to take immediate remedial action to avoid a works notice being served on him, in any case where it appears to them to be necessary to serve such a notice or impose such a requirement; or
  - (b) require such an authority to disclose any information the disclosure of which would be contrary to the public interest.”.

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**Marginal Citations**

M52 1985 c. 68.

**77 Codes of practice.**

After section 395 of the <sup>M53</sup>Housing Act 1985 insert—

**“395A Codes of practice.**

- (1) The Secretary of State may by order—

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- (a) approve any code of practice (whether prepared by him or another person) which, in his opinion, gives suitable guidance to any person in relation to any matter arising under this Part;
  - (b) approve any modification of such a code; or
  - (c) withdraw such a code or modification.
- (2) The Secretary of State shall only approve a code of practice or a modification of a code if he is satisfied that—
- (a) the code or modification has been published (whether by him or by another person) in such manner as he considers appropriate for the purpose of bringing the code or modification to the notice of those likely to be affected by it; or
  - (b) arrangements have been made for the code or modification to be so published.
- (3) The Secretary of State may approve—
- (a) more than one code of practice in relation to the same matter;
  - (b) a code of practice which makes different provision with respect to different cases or descriptions of case (including different provision for different areas).
- (4) A failure to comply with a code of practice for the time being approved under this section shall not of itself render a person liable to any civil or criminal proceedings; but in any civil or criminal proceedings—
- (a) any code of practice approved under this section shall be admissible in evidence, and
  - (b) any provision of any such code which appears to the court to be relevant to any question arising in the proceedings shall be taken into account in determining that question.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section references to a code of practice include references to a part of a code of practice.”

**Marginal Citations**

**M53** 1985 c. 68.

**78 Increase of fines, &c.**

- (1) In section 350(2) of the <sup>M54</sup>Housing Act 1985 (information in relation to registration schemes)—
- (a) in paragraph (a) (failure to give information) for “level 2” substitute “ level 3 ”, and
  - (b) in paragraph (b) (mis-statement) for “level 3” substitute “ level 5 ”.
- (2) In section 355(2) of that Act (failure to comply with occupancy restrictions) for “level 4” substitute “ level 5 ”.

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- (3) In section 356(2) of that Act (information in relation to occupation of house) for “level 2” substitute “ level 3 ”.
- (4) In section 364(2) of that Act (information in relation to overcrowding) for “level 2 on the standard scale” substitute “ , in the case of such failure, level 3 on the standard scale and, in the case of furnishing such a statement, level 5 on the standard scale ”.
- (5) In section 368(3) of that Act (use of house in contravention of undertaking) omit from “and if” to the end.
- (6) In section 369(5) of that Act (failure to comply with management code) for “level 3” substitute “ level 5 ”.
- (7) In section 376(1) and (2) of that Act (penalties for failures to execute works) for “level 4” substitute in each case “ level 5 ”.
- (8) In section 377(3) of that Act (failure to permit execution of works) for the words from “level 3” to the end substitute “ level 5 on the standard scale ”.
- (9) In section 387(5) of that Act (failure to permit carrying out of works) for the words from “level 3” to the end substitute “ level 5 on the standard scale ”.
- (10) In section 396(2) of that Act (penalty for obstruction) for the words “level 3” substitute “ level 4 ”.

**Marginal Citations**

M54 1985 c. 68.

**79 Minor amendments.**

- (1) In section 355(1) of the <sup>M55</sup>Housing Act 1985 (effect of direction limiting number of occupants) for the words from “the number” to the end substitute “ any individual to take up residence in that house or part unless the number of individuals or households then occupying the house or part would not exceed the limit specified in the direction.”.
- (2) In section 398 of the Housing Act 1985 for subsection (6) (meaning of “person managing”) substitute—
  - “(6) “Person managing”—
    - (a) means the person who, being an owner or lessee of the premises—
      - (i) receives, directly or through an agent or trustee, rents or other payments from persons who are tenants of parts of the premises, or who are lodgers, or
      - (ii) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments, and
    - (b) includes, where those rents or other payments are received through another person as agent or trustee, that other person.”.

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- (3) In Part IV of Schedule 13 to the Housing Act 1985 (control order followed by compulsory purchase order), in paragraph 22 (application of provisions where compulsory purchase order is made within 28 days of a control order), for “28 days” substitute “ eight weeks ”.

**Marginal Citations**

**M55** 1985 c. 68.

*Common lodging houses*

**80 Repeal of Part XII of the Housing Act 1985.**

- (1) Part XII of the Housing Act 1985 (common lodging houses) is hereby repealed.
- (2) In consequence of the above repeal—
- (a) in section 619(2) of the Housing Act 1985, for “The other provisions of this Act” substitute “ The provisions of Parts I to XI and XIII to XVIII of this Act ”; and
  - (b) in section 65(2)(a) of the <sup>M56</sup>Housing Act 1988, for “XII” substitute “ XI ”.
- (3) The Secretary of State may by order make such consequential amendments or repeals in any local Act as he considers necessary or expedient.

Any such order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I21** S. 80 wholly in force 3.3.1997: s. 80 not in force at Royal Assent, see s. 232(1)-(3); S. 80(3) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 80 in force at 3.3.1997 so far as not already brought into force, by [S.I. 1997/350](#), [art. 2](#)

**Marginal Citations**

**M56** 1988 c. 50.

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## PART III

### LANDLORD AND TENANT

#### CHAPTER I

#### TENANTS' RIGHTS

##### *Forfeiture*

### **81 Restriction on termination of tenancy for failure to pay service charge.**

(1) A landlord may not, in relation to premises let as a dwelling, exercise a right of re-entry or forfeiture for failure <sup>[F93]</sup>by a tenant to pay a service charge or administration charge unless—

- (a) it is finally determined by (or on appeal from) a leasehold valuation tribunal or by a court, or by an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, that the amount of the service charge or administration charge is payable by him, or
- (b) the tenant has admitted that it is so payable. ]

<sup>[F94]</sup>(2) The landlord may not exercise a right of re-entry or forfeiture by virtue of subsection (1)(a) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.]

<sup>[F95]</sup>(3) For the purposes of this section it is finally determined that the amount of a service charge or administration charge is payable—

- (a) if a decision that it is payable is not appealed against or otherwise challenged, at the end of the time for bringing an appeal or other challenge, or
- (b) if such a decision is appealed against or otherwise challenged and not set aside in consequence of the appeal or other challenge, at the time specified in subsection (3A).

(3A) The time referred to in subsection (3)(b) is the time when the appeal or other challenge is disposed of—

- (a) by the determination of the appeal or other challenge and the expiry of the time for bringing a subsequent appeal (if any), or
- (b) by its being abandoned or otherwise ceasing to have effect.]

(4) The reference in subsection (1) to premises let as a dwelling does not include premises let on—

- (a) a tenancy to which Part II of the <sup>M57</sup>Landlord and Tenant Act 1954 applies (business tenancies),
- (b) a tenancy of an agricultural holding within the meaning of the <sup>M58</sup>Agricultural Holdings Act 1986 in relation to which that Act applies, or
- (c) a farm business tenancy within the meaning of the <sup>M59</sup>Agricultural Tenancies Act 1995.

<sup>[F96]</sup>(4A) References in this section to the exercise of a right of re-entry or forfeiture include the service of a notice under section 146(1) of the Law of Property Act 1925 (restriction on re-entry or forfeiture).]

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(5) In this section

- [<sup>F97</sup>(a) “administration charge” has the meaning given by Part 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002,
- (b) “arbitration agreement” and “arbitral tribunal” have the same meaning as in Part 1 of the Arbitration Act 1996 (c. 23) and “post-dispute arbitration agreement”, in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen,
- (c) “dwelling” has the same meaning as in the Landlord and Tenant Act 1985 (c. 70), and]

“service charge” means a service charge within the meaning of section 18(1) of the <sup>M60</sup>Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

[<sup>F98</sup>(5A) Any order of a court to give effect to a determination of a leasehold valuation tribunal shall be treated as a determination by the court for the purposes of this section.]

(6) Nothing in this section affects the exercise of a right of re-entry or forfeiture on other grounds.

#### Textual Amendments

- F93** Words in s. 81(1) substituted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 170(2)**, 181(1); S.I. 2004/3056, art. 3(f) (with art. 4(3)); S.I. 2005/1353, art. 2(f) (with art. 3(4))
- F94** S. 81(2) substituted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 170(3)**, 181(1); S.I. 2004/3056, art. 3(f) (with art. 4(3)); S.I. 2005/1353, art. 2(f) (with art. 3(4))
- F95** S. 81(3)(3A) substituted for s. 81(3) (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 170(4)**, 181(1); S.I. 2004/3056, art. 3(f) (with art. 4(3)); S.I. 2005/1353, art. 2(f) (with art. 3(4))
- F96** S. 81(4A) inserted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 170(5)**, 181(1); S.I. 2004/3056, art. 3(f) (with art. 4(3)); S.I. 2005/1353, art. 2(f) (with art. 3(4))
- F97** Words in s. 81(5) inserted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 170(6)**, 181(1); S.I. 2004/3056, art. 3(f) (with art. 4(3)); S.I. 2005/1353, art. 2(f) (with art. 3(4))
- F98** S. 81(5A) inserted (28.2.2005 for E., 31.5.2005 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), **Sch. 13 para. 16**; S.I. 2004/3056, art. 3(i); S.I. 2005/1353, art. 2(i)

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

- C30** S. 81 extended to Crown Land (30.9.2003 for E. for specified purposes, 30.3.2004 for W. for specified purposes, 28.2.2005 for E. for specified purposes, 31.5.2005 for W. for specified purposes) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 172**, 181(1); S.I. 2003/1986, art. 2(c)(ii) (with Sch. 2); S.I. 2004/669, art. 2(c)(ii) (with Sch. 2); S.I. 2004/3056, art. 3(h) (with art. 4); S.I. 2005/1353, art. 2(h)

#### Marginal Citations

- M57** 1954 c. 56.  
**M58** 1986 c. 5.  
**M59** 1995 c. 8.  
**M60** 1985 c. 70.



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**F<sup>99</sup>82 Notice under s.146 of the Law of Property Act 1925.**

.....

**Textual Amendments**

**F<sup>99</sup>** S. 82 repealed (28.2.2005 for E.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 14](#); [S.I. 2004/3056](#), art. 3(j)

*Service charges*

**83 Determination of reasonableness of service charges.**

**F<sup>100</sup>(1)** .....

(2) In the Schedule to the Landlord and Tenant Act 1985, for paragraph 8 (right to challenge landlord's choice of insurers) substitute—

- “8
- (1) This paragraph applies where a tenancy of a dwelling requires the tenant to insure the dwelling with an insurer nominated by the landlord.
  - (2) The tenant or landlord may apply to a county court or leasehold valuation tribunal for a determination whether—
    - (a) the insurance which is available from the nominated insurer for insuring the tenant's dwelling is unsatisfactory in any respect, or
    - (b) the premiums payable in respect of any such insurance are excessive.
  - (3) No such application may be made in respect of a matter which—
    - (a) has been agreed or admitted by the tenant,
    - (b) under an arbitration agreement to which the tenant is a party is to be referred to arbitration, or
    - (c) has been the subject of determination by a court or arbitral tribunal.
  - (4) On an application under this paragraph the court or tribunal may make—
    - (a) an order requiring the landlord to nominate such other insurer as is specified in the order, or
    - (b) an order requiring him to nominate another insurer who satisfies such requirements in relation to the insurance of the dwelling as are specified in the order.
  - (5) Any such order of a leasehold valuation tribunal may, with the leave of the court, be enforced in the same way as an order of a county court to the same effect.
  - (6) An agreement by the tenant of a dwelling (other than an arbitration agreement) is void in so far as it purports to provide for a determination in a particular manner, or on particular evidence, of any question which may be the subject of an application under this paragraph.”

**F<sup>101</sup>(3)** .....

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- (4) For section 20C of the <sup>M61</sup>Landlord and Tenant Act 1985 (limitation of service charges: costs of court proceedings) substitute—

**“20C Limitation of service charges: costs of proceedings.**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court or leasehold valuation tribunal, or the Lands Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
  - (c) in the case of proceedings before the Lands Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.”.
- (5) In section 38 of the <sup>M62</sup>Landlord and Tenant Act 1985 (minor definitions), at the appropriate place insert—
- ““arbitration agreement”, “arbitration proceedings” and “arbitral tribunal” have the same meaning as in Part I of the <sup>M63</sup>Arbitration Act 1996;”.
- (6) In section 39 of that Act (index of defined expressions), at the appropriate place insert—

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“arbitration agreement, arbitration proceedings and arbitral tribunal	section 38”
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**Textual Amendments**

- F100** S. 83(1) repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 14](#); S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 2 (with Sch. 2)
- F101** S. 83(3) repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 14](#); S.I. 2003/1986, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2); S.I. 2004/669, art. 2(c)(iv), Sch. 1 Pt. 1 (with Sch. 2)

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#### Commencement Information

**I22** S. 83 wholly in force 11.8.1998; s. 83 not in force at Royal Assent see s. 232(1)-(3); s. 83(3) in force for certain purposes at 23.8.1996 by S.I. 1996/2212, **art. 2(1)**; s. 83 in force at 1.9.1997 to the extent not already in force by S.I. 1997/1851, **art. 2** (subject to the saving in **Sch. para. 1**); s. 83 in force at 11.8.1998 to the extent that it does not, because of **Sch. para. 1**, already have effect by S.I. 1998/1768, **art. 2** (subject to **art. 3**).

#### Marginal Citations

**M61** 1985 c. 70.

**M62** 1985 c. 70.

**M63** 1996 c. 23.

### 84 Right to appoint surveyor to advise on matters relating to service charges.

- (1) A recognised tenants' association may appoint a surveyor for the purposes of this section to advise on any matters relating to, or which may give rise to, service charges payable to a landlord by one or more members of the association.

The provisions of Schedule 4 have effect for conferring on a surveyor so appointed rights of access to documents and premises.

- (2) A person shall not be so appointed unless he is a qualified surveyor.

For this purpose "qualified surveyor" has the same meaning as in section 78(4)(a) of the <sup>M64</sup>Leasehold Reform, Housing and Urban Development Act 1993 (persons qualified for appointment to carry out management audit).

- (3) The appointment shall take effect for the purposes of this section upon notice in writing being given to the landlord by the association stating the name and address of the surveyor, the duration of his appointment and the matters in respect of which he is appointed.
- (4) An appointment shall cease to have effect for the purposes of this section if the association gives notice in writing to the landlord to that effect or if the association ceases to exist.
- (5) A notice is duly given under this section to a landlord of any tenants if it is given to a person who receives on behalf of the landlord the rent payable by those tenants; and a person to whom such a notice is so given shall forward it as soon as may be to the landlord.
- (6) In this section—

"recognised tenants' association" has the same meaning as in the provisions of the <sup>M65</sup>Landlord and Tenant Act 1985 relating to service charges (see section 29 of that Act); and

"service charge" means a service charge within the meaning of section 18(1) of that Act, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

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

**C31** S. 84 modified (30.9.2003 for E., 30.3.2004 for W.) by **Commonhold and Leasehold Reform Act 2002** (c. 15), s. 181(1), **Sch. 7 para. 15(1)**; S.I. 2003/1986, **art. 2(a)**; S.I. 2004/669, **art. 2(a)**

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- C32** S. 84 extended to Crown Land (30.9.2003 for E. for specified purposes, 30.3.2004 for W. for specified purposes) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [ss. 172](#), 181(1); S.I. 2003/1986, [art. 2\(c\)\(ii\)](#) (with [Sch. 2](#)); S.I. 2004/669, [art. 2\(c\)\(ii\)](#) (with [Sch. 2](#))
- C33** S. 84(5) applied (with modifications) (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), [s. 181\(1\)](#), [Sch. 7 para. 15\(2\)](#); S.I. 2003/1986, [art. 2\(a\)](#); S.I. 2004/669, [art. 2\(a\)](#)

#### Marginal Citations

**M64** 1993 c. 28.

**M65** 1985 c. 70.

### *Appointment of manager*

#### **85 Appointment of manager by the court.**

- (1) Section 24 of the <sup>M66</sup>Landlord and Tenant Act 1987 (appointment of manager by the court) is amended as follows.
- (2) In subsection (2) (circumstances in which order may be made), in paragraph (a) (breach of obligation by landlord), omit sub-paragraph (ii) (requirement that circumstances likely to continue).
- (3) In that subsection, after paragraph (a), and before the word “or” following that paragraph, insert—
  - “(ab) where the court is satisfied—
    - (i) that unreasonable service charges have been made, or are proposed or likely to be made, and
    - (ii) that it is just and convenient to make the order in all the circumstances of the case;
  - (ac) where the court is satisfied—
    - (i) that the landlord has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the <sup>M67</sup>Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and
    - (ii) that it is just and convenient to make the order in all the circumstances of the case;”.
- (4) After that subsection insert—
  - “(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—
    - (a) if the amount is unreasonable having regard to the items for which it is payable,
    - (b) if the items for which it is payable are of an unnecessarily high standard, or
    - (c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection “service charge” means a service charge within the meaning of section 18(1) of the <sup>M68</sup>Landlord and Tenant Act 1985,

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other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).”.

- (5) The above amendments apply to applications for an order under section 24 of the <sup>M69</sup>Landlord and Tenant Act 1987 which are made after this section comes into force.

In relation to any such application the reference in the inserted subsection (2)(ab) to service charges which have been made includes services charges made before that date.

- (6) After subsection (9) insert—

“(9A) The court shall not vary or discharge an order under subsection (9) on a landlord’s application unless it is satisfied—

- (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and
- (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.”.

#### Marginal Citations

**M66** 1987 c. 31.

**M67** 1993 c. 28.

**M68** 1985 c. 70.

**M69** 1987 c. 31.

## 86 Appointment of manager: transfer of jurisdiction to leasehold valuation tribunal.

- (1) Part II of the Landlord and Tenant Act 1987 (appointment of managers by the court) is amended as follows for the purpose of transferring to a leasehold valuation tribunal the jurisdiction of the court under that Part.

- (2) In the following contexts for “the court”, in the first (or only) place where it occurs, substitute “a leasehold valuation tribunal”: section 21(1), section 22(2)(b), section 22(3), section 23(1), section 24(1), (2), (9) and (10); and in every other context in those sections, except section 21(6), for “the court” substitute “the tribunal”.

- (3) In section 21(6) (exclusion of application under inherent jurisdiction of court) for “any jurisdiction existing apart from this Act” substitute “any jurisdiction”.

<sup>F102</sup>(4) .....

<sup>F102</sup>(5) .....

- (6) In section 52 of the <sup>M70</sup>Landlord and Tenant Act 1987 (jurisdiction of county courts), in subsection (2)(a) for “Parts I to IV” substitute “Parts I, III and IV”.

#### Textual Amendments

**F102** S. 86(4)(5) repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 181(1), [Sch. 14](#); [S.I. 2003/1986](#), art. 2(c)(iv), [Sch. 1 Pt. 1](#) (with [Sch. 2](#)); [S.I. 2004/669](#), art. 2(c)(iv), [Sch. 1 Pt 1](#) (with [Sch. 2](#))

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#### Commencement Information

**I23** S. 86 wholly in force 1.9.1997; s. 86 not in force at Royal Assent see s. 232(1)-(3); s. 86(4)(5) in force for certain purposes at 23.8.1996 by S.I. 1996/2212, **art. 2(1)** and s. 86 in force at 1.9.1997 to the extent not already in force by S.I. 1997/1851, **art. 2** (subject to the saving in **Sch. para. 2**)

#### Marginal Citations

**M70** 1987 c. 31.

PROSPECTIVE

#### 87 Text of Part II of the Landlord and Tenant Act 1987, as amended.

The text of Part II of the Landlord and Tenant Act 1987 as amended by this Act is set out in Schedule 5.

#### 88 Period after which acquisition order may be made.

In Part III of the Landlord and Tenant Act 1987 (compulsory acquisition by tenants of their landlord's interest), in section 29(3) (conditions for making acquisition orders: period since appointment of manager under Part II) for "three years" substitute "two years".

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

**C34** S. 88 restricted (22.8.1996) by S.I. 1996/2212, **art. 2(2)**, Sch. para. 1

#### *Right of first refusal*

#### 89 Application of right of first refusal in relation to contracts.

(1) After section 4 of the <sup>M71</sup>Landlord and Tenant Act 1987 (relevant disposals) insert—

##### “4A Application of provisions to contracts.

(1) The provisions of this Part apply to a contract to create or transfer an estate or interest in land, whether conditional or unconditional and whether or not enforceable by specific performance, as they apply in relation to a disposal consisting of the creation or transfer of such an estate or interest.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to a contract to make such a disposal;
- (b) references to making a disposal of any description shall be construed as references to entering into a contract to make such a disposal; and
- (c) references to the transferee under the disposal shall be construed as references to the other party to the contract and include a reference to any other person to whom an estate or interest is to be granted or transferred in pursuance of the contract.

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- (2) The provisions of this Part apply to an assignment of rights under such a contract as is mentioned in subsection (1) as they apply in relation to a disposal consisting of the transfer of an estate or interest in land.

As they so apply—

- (a) references to a disposal of any description shall be construed as references to an assignment of rights under a contract to make such a disposal;
- (b) references to making a disposal of any description shall be construed as references to making an assignment of rights under a contract to make such a disposal;
- (c) references to the landlord shall be construed as references to the assignor; and
- (d) references to the transferee under the disposal shall be construed as references to the assignee of such rights.

- (3) The provisions of this Part apply to a contract to make such an assignment as is mentioned in subsection (2) as they apply (in accordance with subsection (1)) to a contract to create or transfer an estate or interest in land.

- (4) Nothing in this section affects the operation of the provisions of this Part relating to options or rights of pre-emption.”.

- (2) In section 4(2) of the Landlord and Tenant Act 1987 (relevant disposals: excluded disposals), for paragraph (i) (certain disposals in pursuance of existing obligations) substitute—

“(i) a disposal in pursuance of a contract, option or right of pre-emption binding on the landlord (except as provided by section 8D (application of sections 11 to 17 to disposal in pursuance of option or right of pre-emption));”.

- (3) In section 20(1) (interpretation), in the definition of “disposal” for “has the meaning given by section 4(3)” substitute “ shall be construed in accordance with section 4(3) and section 4A (application of provisions to contracts) ”.

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

**C35** S. 89 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 2

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**Marginal Citations**

**M71** [1987 c. 31](#).

## 90 Notice required to be given by landlord making disposal.

- (1) In section 4(2) of the <sup>M72</sup>Landlord and Tenant Act 1987 (disposals which are not relevant disposals for the purposes of Part I of that Act), for paragraph (1) substitute—

“(1) a disposal by a body corporate to a company which has been an associated company of that body for at least two years.”.

- (2) The above amendment does not apply to a disposal made in pursuance of an obligation entered into before the commencement of this section.

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

**C36** S. 90 restricted (22.8.1996) by [S.I. 1996/2212](#), **art. 2(2)**, Sch. para. 2

**Marginal Citations**

**M72** 1987 c. 31.

**91 Offence of failure to comply with requirements of Part I.**

(1) After section 10 of the Landlord and Tenant Act 1987 insert—

**“10A Offence of failure to comply with requirements of Part I.**

- (1) A landlord commits an offence if, without reasonable excuse, he makes a relevant disposal affecting premises to which this Part applies—
- (a) without having first complied with the requirements of section 5 as regards the service of notices on the qualifying tenants of flats contained in the premises, or
  - (b) in contravention of any prohibition or restriction imposed by sections 6 to 10.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Where an offence under this section committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such a capacity, or
  - (b) to be due to any neglect on the part of such an officer or person,
- he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- Where the affairs of a body corporate are managed by its members, the above provision applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) Proceedings for an offence under this section may be brought by a local housing authority (within the meaning of section 1 of the <sup>M73</sup>Housing Act 1985).
- (5) Nothing in this section affects the validity of the disposal.”.

(2) The above amendment does not apply to a disposal made in pursuance of an obligation entered into before the commencement of this section.

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

**C37** S. 91 restricted (22.8.1996) by [S.I. 1996/2212](#), **art. 2(2)**, Sch. para. 2



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### Marginal Citations

M73 1985 c. 68.

## 92 Procedure for exercise of rights of first refusal.

- (1) Part I of the <sup>M74</sup>Landlord and Tenant Act 1987 (tenants' rights of first refusal) is amended in accordance with Schedule 6.
- (2) The amendments restate the principal provisions of that Part so as to—
  - (a) simplify the procedures for the exercise of the rights conferred on tenants, and
  - (b) apply those procedures in relation to contracts and certain special cases.
- (3) In Schedule 6—

Part I sets out provisions replacing sections 5 to 10 of the Act (rights of first refusal),

Part II sets out provisions replacing sections 11 to 15 of the Act (enforcement by tenants of rights against purchaser),

Part III sets out provisions replacing sections 16 and 17 of the Act (enforcement of rights against subsequent purchasers and termination of rights), and

Part IV contains consequential amendments.

### Modifications etc. (not altering text)

C38 S. 92 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), Sch. para. 2

### Commencement Information

I24 S. 92 wholly in force 1.10.1996; s. 92 not in force at Royal Assent see s. 232(1)-(3); s. 92 in force for certain purposes at 23.8.1996 and in force at 1.10.1996 so far as not already in force by S.I. 1996/2212, art. 2

### Marginal Citations

M74 1987 c. 31.

## 93 Duty of new landlord to inform tenant of rights.

- (1) In the <sup>M75</sup>Landlord and Tenant Act 1985, after section 3 (duty to inform tenant of assignment of landlord's interest) insert—

### “3A Duty to inform tenant of possible right to acquire landlord's interest.

- (1) Where a new landlord is required by section 3(1) to give notice to a tenant of an assignment to him, then if—
  - (a) the tenant is a qualifying tenant within the meaning of Part I of the Landlord and Tenant Act 1987 (tenants' rights of first refusal), and
  - (b) the assignment was a relevant disposal within the meaning of that Part affecting premises to which at the time of the disposal that Part applied,

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the landlord shall give also notice in writing to the tenant to the following effect.

- (2) The notice shall state—
- (a) that the disposal to the landlord was one to which Part I of the Landlord and Tenant Act 1987 applied;
  - (b) that the tenant (together with other qualifying tenants) may have the right under that Part—
    - (i) to obtain information about the disposal, and
    - (ii) to acquire the landlord's interest in the whole or part of the premises in which the tenant's flat is situated; and
  - (c) the time within which any such right must be exercised, and the fact that the time would run from the date of receipt of notice under this section by the requisite majority of qualifying tenants (within the meaning of that Part).
- (3) A person who is required to give notice under this section and who fails, without reasonable excuse, to do so within the time allowed for giving notice under section 3(1) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.”.

- (2) In section 32(1) of the <sup>M76</sup>Landlord and Tenant Act 1985 (provisions not applying to tenancies within Part II of the <sup>M77</sup>Landlord and Tenant Act 1954), for “sections 1 to 3” substitute “ sections 1 to 3A ”.

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

**C39** S. 93 restricted (22.8.1996) by [S.I. 1996/2212](#), **art. 2(2)**, Sch. para. 2

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**Marginal Citations**

**M75** 1985 c. 70.

**M76** 1985 c. 70.

**M77** 1954 c. 56.

*General legal advice*

**94 Provision of general legal advice about residential tenancies.**

- (1) The Secretary of State may give financial assistance to any person in relation to the provision by that person of general advice about—
  - (a) any aspect of the law of landlord and tenant, so far as relating to residential tenancies, or
  - (b) Chapter IV of Part I of the <sup>M78</sup>Leasehold Reform, Housing and Urban Development Act 1993 (estate management schemes in connection with enfranchisement).
- (2) Financial assistance under this section may be given in such form and on such terms as the Secretary of State considers appropriate.
- (3) The terms on which financial assistance under this section may be given may, in particular, include provision as to the circumstances in which the assistance must be

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repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.

**Marginal Citations**

**M78** 1993 c. 28.

*Supplementary*

**95 Jurisdiction of county courts.**

- (1) Any jurisdiction expressed by a provision to which this section applies to be conferred on the court shall be exercised by a county court.
- (2) There shall also be brought in a county court any proceedings for determining any question arising under or by virtue of any provision to which this section applies.
- (3) Where, however, other proceedings are properly brought in the High Court, that court has jurisdiction to hear and determine proceedings to which subsection (1) or (2) applies which are joined with those proceedings.
- (4) Where proceedings are brought in a county court by virtue of subsection (1) or (2), that court has jurisdiction to hear and determine other proceedings joined with those proceedings despite the fact that they would otherwise be outside its jurisdiction.
- (5) The provisions to which this section applies are—
  - (a) section 81 (restriction on termination of tenancy for failure to pay service charge), and
  - (b) section 84 (right to appoint surveyor to advise on matters relating to service charges) and Schedule 4 (rights exercisable by surveyor appointed by tenants' association).

**CHAPTER II**

ASSURED TENANCIES

*Assured shorthold tenancies*

**96 Tenancies which are assured shorthold tenancies.**

- (1) In Chapter II of Part I of the <sup>M79</sup>Housing Act 1988 (assured shorthold tenancies) there shall be inserted at the beginning—

**“19A Assured shorthold tenancies: post-Housing Act 1996 tenancies.**

An assured tenancy which—

- (a) is entered into on or after the day on which section 96 of the Housing Act 1996 comes into force (otherwise than pursuant to a contract made before that day), or

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- (b) comes into being by virtue of section 5 above on the coming to an end of an assured tenancy within paragraph (a) above,  
 is an assured shorthold tenancy unless it falls within any paragraph in Schedule 2A to this Act.”.
- (2) After Schedule 2 to that Act there shall be inserted the Schedule set out in Schedule 7 to this Act.

#### Commencement Information

**I25** S. 96 wholly in force 28.2.1997; s. 96 not in force at Royal Assent see s. 232(1)-(3); s. 96 in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#) and in force at 28.2.1997 to the extent it is not already in force by [S.I. 1997/225](#), [art. 2](#)

#### Marginal Citations

**M79** [1988 c. 50](#).

## 97 Duty of landlord to provide statement of terms of assured shorthold tenancy.

After section 20 of the Housing Act 1988 there shall be inserted—

### “20A Post-Housing Act 1996 tenancies: duty of landlord to provide statement as to terms of tenancy.

- (1) Subject to subsection (3) below, a tenant under an assured shorthold tenancy to which section 19A above applies may, by notice in writing, require the landlord under that tenancy to provide him with a written statement of any term of the tenancy which—
- (a) falls within subsection (2) below, and
  - (b) is not evidenced in writing.
- (2) The following terms of a tenancy fall within this subsection, namely—
- (a) the date on which the tenancy began or, if it is a statutory periodic tenancy or a tenancy to which section 39(7) below applies, the date on which the tenancy came into being,
  - (b) the rent payable under the tenancy and the dates on which that rent is payable,
  - (c) any term providing for a review of the rent payable under the tenancy, and
  - (d) in the case of a fixed term tenancy, the length of the fixed term.
- (3) No notice may be given under subsection (1) above in relation to a term of the tenancy if—
- (a) the landlord under the tenancy has provided a statement of that term in response to an earlier notice under that subsection given by the tenant under the tenancy, and
  - (b) the term has not been varied since the provision of the statement referred to in paragraph (a) above.
- (4) A landlord who fails, without reasonable excuse, to comply with a notice under subsection (1) above within the period of 28 days beginning with the date on

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which he received the notice is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (5) A statement provided for the purposes of subsection (1) above shall not be regarded as conclusive evidence of what was agreed by the parties to the tenancy in question.
- (6) Where—
- (a) a term of a statutory periodic tenancy is one which has effect by virtue of section 5(3)(e) above, or
  - (b) a term of a tenancy to which subsection (7) of section 39 below applies is one which has effect by virtue of subsection (6)(e) of that section,
- subsection (1) above shall have effect in relation to it as if paragraph (b) related to the term of the tenancy from which it derives.
- (7) In subsections (1) and (3) above—
- (a) references to the tenant under the tenancy shall, in the case of joint tenants, be taken to be references to any of the tenants, and
  - (b) references to the landlord under the tenancy shall, in the case of joint landlords, be taken to be references to any of the landlords.”

## 98 Form of notices under s. 21 of the Housing Act 1988.

- (1) Section 21 of the <sup>M80</sup>Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy) shall be amended as follows.
- (2) In subsection (1)(b) (which requires the landlord under a fixed term tenancy to give two months’ notice to recover possession), after “notice” there shall be inserted “ in writing ”.
- (3) In subsection (4)(a) (corresponding provision for periodic tenancies), after “notice”, where it first occurs, there shall be inserted “ in writing ”.

### Commencement Information

**I26** S. 98 wholly in force at 28.2.1997 by [S.I. 1997/225](#), [art. 2](#) (subject to savings in the Sch. to that S.I.)

### Marginal Citations

**M80** 1988 c. 50.

## 99 Restriction on recovery of possession on expiry or termination.

In section 21 of the Housing Act 1988 there shall be inserted at the end—

- “(5) Where an order for possession under subsection (1) or (4) above is made in relation to a dwelling-house let on a tenancy to which section 19A above applies, the order may not be made so as to take effect earlier than—
- (a) in the case of a tenancy which is not a replacement tenancy, six months after the beginning of the tenancy, and
  - (b) in the case of a replacement tenancy, six months after the beginning of the original tenancy.
- (6) In subsection (5)(b) above, the reference to the original tenancy is—

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- (a) where the replacement tenancy came into being on the coming to an end of a tenancy which was not a replacement tenancy, to the immediately preceding tenancy, and
- (b) where there have been successive replacement tenancies, to the tenancy immediately preceding the first in the succession of replacement tenancies.

(7) For the purposes of this section, a replacement tenancy is a tenancy—

- (a) which comes into being on the coming to an end of an assured shorthold tenancy, and
- (b) under which, on its coming into being—
  - (i) the landlord and tenant are the same as under the earlier tenancy as at its coming to an end, and
  - (ii) the premises let are the same or substantially the same as those let under the earlier tenancy as at that time.”.

### **100 Applications for determination of rent: time limit.**

- (1) Section 22 of the <sup>M81</sup>Housing Act 1988 (reference of excessive rents to rent assessment committee) shall be amended as follows.
- (2) In subsection (2) (circumstances in which no application under the section may be made) after paragraph (a) there shall be inserted—
  - “(aa) the tenancy is one to which section 19A above applies and more than six months have elapsed since the beginning of the tenancy or, in the case of a replacement tenancy, since the beginning of the original tenancy; or”.
- (3) At the end there shall be inserted—
  - “(6) In subsection (2)(aa) above, the references to the original tenancy and to a replacement tenancy shall be construed in accordance with subsections (6) and (7) respectively of section 21 above.”.

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#### **Marginal Citations**

**M81** 1988 c. 50.

### *Grounds for possession*

### **101 Mandatory possession for non-payment of rent: reduction in arrears required.**

In Part I of Schedule 2 to the Housing Act 1988 (grounds on which court must order possession) in Ground 8 (rent unpaid for certain periods)—

- (a) in paragraph (a) (rent payable weekly or fortnightly) for “thirteen weeks” there shall be substituted “ eight weeks ”, and
- (b) in paragraph (b) (rent payable monthly) for “three months” there shall be substituted “ two months ”.

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**Commencement Information**

**I27** S. 101 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

**102 Recovery of possession where grant induced by false statement.**

In Part II of Schedule 2 to the Housing Act 1988 (grounds on which court may order possession) there shall be inserted at the end—

**Ground 17**

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation.”

**Commencement Information**

**I28** S. 102 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

*Assured agricultural occupancies*

**103 Assured agricultural occupancies: exclusion of tenancies of agricultural holdings and farm business tenancies.**

- (1) Section 24 of the <sup>M82</sup>Housing Act 1988 (assured agricultural occupancies) shall be amended as follows.
- (2) In subsection (2)(b) (under which a tenancy is an assured agricultural occupancy if it would be an assured tenancy, but for paragraph 7 of Schedule 1 to that Act) there shall be inserted at the end “ and is not an excepted tenancy ”.
- (3) After subsection (2) there shall be inserted—

“(2A) For the purposes of subsection (2)(b) above, a tenancy is an excepted tenancy if it is—

- (a) a tenancy of an agricultural holding within the meaning of the <sup>M83</sup>Agricultural Holdings Act 1986 in relation to which that Act applies, or
- (b) a farm business tenancy within the meaning of the <sup>M84</sup>Agricultural Tenancies Act 1995.”.

**Marginal Citations**

**M82** 1988 c. 50.  
**M83** 1986 c. 5.  
**M84** 1995 c. 8.

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*Consequential amendments*

**104 Consequential amendments: assured tenancies.**

The enactments mentioned in Schedule 8 have effect with the amendments specified there which are consequential on the provisions of this Chapter.

**CHAPTER III**

LEASEHOLD REFORM

*Scope of rights*

**105 Low rent test: nil rateable values.**

- (1) In section 4(1) of the <sup>M85</sup>Leasehold Reform Act 1967 (meaning of “low rent”) —
  - (a) in paragraph (i) (cases where rent limit of two-thirds of rateable value on later of appropriate day and first day of term applies), for the words from “or (where” to “that date” there shall be substituted “ , or on or after 1st April 1990 in pursuance of a contract made before that date, and the property had a rateable value other than nil at the date of the commencement of the tenancy or else at any time before 1st April 1990, ”,
  - (b) in paragraph (ii) (other cases), for the words from “is entered” to “1990),” there shall be substituted “ does not fall within paragraph (i) above, ”, and
  - (c) in paragraph (a) (definition of “appropriate day” by reference to section 25(3) of the <sup>M86</sup>Rent Act 1977), there shall be inserted at the end “ if the reference in paragraph (a) of that provision to a rateable value were to a rateable value other than nil ”.
  
- (2) In section 4A of the <sup>M87</sup>Leasehold Reform Act 1967 (alternative rent limits for the purposes of section 1A(2) of that Act)—
  - (a) in subsection (1)(b) (cases where rent limit of two-thirds of rateable value on the relevant date applies), for sub-paragraph (ii) there shall be substituted—
    - “(ii) the property had a rateable value other than nil at the date of commencement of the tenancy or else at any time before 1st April 1990,”, and
  - (b) in subsection (2), for paragraph (b) there shall be substituted—
    - “(b) “the relevant date” means the date of the commencement of the tenancy or, if the property did not have a rateable value, or had a rateable value of nil, on that date, the date on which it first had a rateable value other than nil;”.

<sup>F103</sup>(3) .....

**Textual Amendments**

**F103** S. 105(3) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 1** (subject to the transitional provisions and savings in **Sch. 2**); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 1** (subject to the transitional provisions and savings in **Sch. 2**)



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

**C40** S. 105(1)(2) restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), [Sch. para. 3](#)

**Marginal Citations**

**M85** 1967 c. 88.

**M86** 1977 c. 42.

**M87** 1967 c. 88.

**106 Low rent test: extension of rights.**

Schedule 9 (which makes provision for conferring an additional right to enfranchisement in relation to tenancies which fail the low rent test and for introducing an alternative to the low rent test in the case of the right to collective enfranchisement and the right to a new lease) shall have effect.

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

**C41** S. 106 restricted (5.3.1997) by [S.I. 1997/618](#), [art. 2](#), [Sch. para. 2](#)

**Commencement Information**

**I29** S. 106 wholly in force 1.4.1997; s. 106 not in force at Royal Assent see s. 232(1)-(3); s. 106 in force for certain purposes at 23.8.1996 by [S.I. 1996/2212](#), [art. 2\(1\)](#) and in force at 1.4.1997 to the extent not already in force by [S.I. 1997/618](#), [art. 2](#) (subject to the limitation in (2) of that art.)

**107 Collective enfranchisement: multiple freeholders.**

- (1) In section 3 of the Leasehold Reform, Housing and Urban Development Act 1993 (premises in respect of which the right to collective enfranchisement is exercisable), in subsection (1)(a), the words “and the freehold of the whole of the building or of that part of the building is owned by the same person” shall be omitted.
- (2) In section 4 of that Act (premises excluded from the right to collective enfranchisement), after subsection (3) there shall be inserted—

“(3A) Where different persons own the freehold of different parts of premises within subsection (1) of section 3, this Chapter does not apply to the premises if any of those parts is a self-contained part of a building for the purposes of that section.”.
- (3) In section 1(3) of that Act (additional property which may be acquired by tenants exercising the right to collective enfranchisement), the words “the freehold of it is owned by the person who owns the freehold of the relevant premises and” shall be omitted.
- (4) Schedule 10 (amendments consequential on this section) shall have effect.

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

**C42** S. 107 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), [Sch. para. 4](#).

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### Valuation

#### 108 Collective enfranchisement: removal of need for professional valuation of interests to be acquired.

In section 13 of the <sup>M88</sup>Leasehold Reform, Housing and Urban Development Act 1993 (notice by qualifying tenants of claim to exercise right to collective enfranchisement) subsection (6) (tenants to obtain professional valuation of interests proposed to be acquired before giving notice) shall cease to have effect.

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

**C43** S. 108 restricted (22.8.1996) by [S.I. 1996/2212, art. 2\(2\)](#), Sch. para 4.

##### Marginal Citations

**M88** 1993 c. 28.

#### 109 Collective enfranchisement: valuation principles.

- (1) Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 (purchase price payable by nominee purchaser) shall be amended as follows.
- (2) In paragraph 3(1) (freeholder's interest to be valued on the basis that neither the nominee purchaser nor any participating tenant is in the market) for "neither the nominee purchaser nor any participating tenant" there shall be substituted "no person who falls within sub-paragraph (1A)".
- (3) After paragraph 3(1) there shall be inserted—
  - "(1A) A person falls within this sub-paragraph if he is—
    - (a) the nominee purchaser, or
    - (b) a tenant of premises contained in the specified premises, or
    - (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b)."
- (4) In paragraph 7 (value of intermediate leasehold interests) after sub-paragraph (1) there shall be inserted—
  - "(1A) In its application in accordance with sub-paragraph (1), paragraph 3(1A) shall have effect with the addition after paragraph (a) of—
    - (c) an owner of a freehold interest in the specified premises, or"
- (5) In paragraph 11 (value of other interests) after sub-paragraph (3) there shall be inserted—
  - "(4) In its application in accordance with sub-paragraph (2) above, paragraph 3(1A) shall have effect with the addition after paragraph (a) of—
    - (c) an owner of a freehold interest in the specified premises, or"

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

**C44** S. 109 restricted (22.8.1996) by [S.I. 1996/2212, art. 2\(2\)](#), Sch. para 4.

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## 110 New leases: valuation principles.

- (1) Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (premium and other amounts payable by tenant on grant of new lease) shall be amended as mentioned in subsections (2) to (4) below.
- (2) In paragraph 3(2) (landlord's interest to be valued on the basis that the tenant is not buying or seeking to buy) for "the tenant not" there shall be substituted "neither the tenant nor any owner of an intermediate leasehold interest".
- (3) In paragraph 4(3) (calculation of marriage value) for paragraph (a) (value of tenant's interest) there shall be substituted—
  - (a) the value of the interest of the tenant under his existing lease shall be determined in accordance with paragraph 4A;
  - (aa) the value of the interest to be held by the tenant under the new lease shall be determined in accordance with paragraph 4B;”, and, in paragraph (b), for “that sub-paragraph” there shall be substituted “sub-paragraph (2)”.
- (4) After paragraph 4 there shall be inserted—

- “4A
- (1) Subject to the provisions of this paragraph, the value of the interest of the tenant under the existing lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the landlord nor any owner of an intermediate leasehold interest buying or seeking to buy) on the following assumptions—
    - (a) on the assumption that the vendor is selling such interest as is held by the tenant subject to any interest inferior to the interest of the tenant;
    - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
    - (c) on the assumption that any increase in the value of the flat which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
    - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the existing lease of the tenant has effect.
  - (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest of the tenant under his existing lease might be expected to realise if sold as mentioned in that sub-paragraph.
  - (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
  - (4) Subject to sub-paragraph (5), the value of the interest of the tenant under his existing lease shall not be increased by reason of—
    - (a) any transaction which—
      - (i) is entered into after 19th January 1996, and

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- (ii) involves the creation or transfer of an interest inferior to the tenant's existing lease; or
  - (b) any alteration after that date of the terms on which any such inferior interest is held.
- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
- (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
  - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.
- 4B
- (1) Subject to the provisions of this paragraph, the value of the interest to be held by the tenant under the new lease is the amount which at the valuation date that interest (assuming it to have been granted to him at that date) might be expected to realise if sold on the open market by a willing seller (with the owner of any interest superior to the interest of the tenant not buying or seeking to buy) on the following assumptions—
- (a) on the assumption that the vendor is selling such interest as is to be held by the tenant under the new lease subject to the inferior interests to which the tenant's existing lease is subject at the valuation date;
  - (b) on the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant's flat or to acquire any new lease;
  - (c) on the assumption that there is to be disregarded any increase in the value of the flat which would fall to be disregarded under paragraph (c) of sub-paragraph (1) of paragraph 4A in valuing in accordance with that sub-paragraph the interest of the tenant under his existing lease; and
  - (d) on the assumption that (subject to paragraph (b)) the vendor is selling with and subject to the rights and burdens with and subject to which any interest inferior to the tenant's existing lease at the valuation date then has effect.
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made in relation to particular matters does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the interest to be held by the tenant under the new lease might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining any such amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of that interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Subject to sub-paragraph (5), the value of the interest to be held by the tenant under the new lease shall not be decreased by reason of—
- (a) any transaction which—
    - (i) is entered into after 19th January 1996, and

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- (ii) involves the creation or transfer of an interest inferior to the tenant’s existing lease; or
  - (b) any alteration after that date of the terms on which any such inferior interest is held.
- (5) Sub-paragraph (4) shall not apply to any transaction which falls within paragraph (a) of that sub-paragraph if—
- (a) the transaction is entered into in pursuance of a contract entered into on or before the date mentioned in that paragraph; and
  - (b) the amount of the premium payable by the tenant in respect of the grant of the new lease was determined on or before that date either by agreement or by a leasehold valuation tribunal under this Chapter.”.
- (5) This section applies in relation to any claim made after 19th January 1996 by the giving of notice under section 42 of the Act of 1993 unless the amount of the premium payable in pursuance of the claim has been determined, either by agreement or by a leasehold valuation tribunal under Chapter II of the Act of 1993, before the day on which this Act is passed.

### Trusts

<sup>F104</sup>111 .....

#### Textual Amendments

**F104** S. 111 repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 1** (subject to transitional provisions and savings in **Sch. 2**); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 1** (subject to transitional provisions and savings in **Sch. 2**)

<sup>F105</sup>112 .....

#### Textual Amendments

**F105** S. 112 repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 180, **Sch. 14**; S.I. 2002/1912, art. 2(b)(ii), **Sch. 1 Pt. 2** (subject to transitional provisions and savings in **Sch. 2**); S.I. 2002/3012, art. 2(b)(ii), **Sch. 1 Pt. 2** (subject to transitional provisions and savings in **Sch. 2**)

### 113 Powers of trustees.

After section 93 of the Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

#### “93A Powers of trustees in relation to rights under Chapters I and II.

- (1) Where trustees are a qualifying tenant of a flat for the purposes of Chapter I or II, their powers under the instrument regulating the trusts shall include power to participate in the exercise of the right to collective enfranchisement under

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Chapter I or, as the case may be, to exercise the right to a new lease under Chapter II.

- (2) Subsection (1) shall not apply where the instrument regulating the trusts—
- (a) is made on or after the day on which section 113 of the Housing Act 1996 comes into force, and
  - (b) contains an explicit direction to the contrary.
- (3) The powers conferred by subsection (1) shall be exercisable with the like consent or on the like direction (if any) as may be required for the exercise of the trustees' powers (or ordinary powers) of investment.
- (4) The following purposes, namely—
- (a) those authorised for the application of capital money by section 73 of the <sup>M89</sup>Settled Land Act 1925, or by that section as applied by section 28 of the <sup>M90</sup>Law of Property Act 1925 in relation to trusts for sale, and
  - (b) those authorised by section 71 of the Settled Land Act 1925, or by that section as so applied, as purposes for which moneys may be raised by mortgage,

shall include the payment of any expenses incurred by a tenant for life or statutory owners or by trustees for sale, as the case may be, in or in connection with participation in the exercise of the right to collective enfranchisement under Chapter I or in or in connection with the exercise of the right to a new lease under Chapter II.”.

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

**C45** S. 113 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para 4.

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**Marginal Citations**

**M89** 1925 c. 18.

**M90** 1925 c. 20.

*Miscellaneous*

**114 Minor amendment of section 1(1)(a) of Leasehold Reform Act 1967.**

In section 1 of the <sup>M91</sup>Leasehold Reform Act 1967 (tenants entitled to enfranchisement or extension), in subsection (1)(a)—

- (a) in sub-paragraph (i), for the words from “or (where” to “that date,” there shall be substituted “, or on or after 1st April 1990 in pursuance of a contract made before that date, and the house and premises had a rateable value at the date of commencement of the tenancy or else at any time before 1st April 1990, ”, and
- (b) in sub-paragraph (ii), for the words from “is entered” to “1990),” there shall be substituted “ does not fall within sub-paragraph (i) above, ”.

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

**C46** S. 114 restricted (22.8.1996) by [S.I. 1996/2212](#), [art. 2\(2\)](#), Sch. para. 3

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**Marginal Citations**

M91 1967 c. 88.

**115 Power for leasehold valuation tribunal to determine amount of costs payable under Leasehold Reform Act 1967.**

In section 21(1) of the Leasehold Reform Act 1967 (matters to be determined by leasehold valuation tribunal), after paragraph (b) there shall be inserted—

“(ba) the amount of any costs payable under section 9(4) or 14(2);”.

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

C47 S. 115 restricted (22.8.1996) by S.I. 1996/2212, art. 2(2), Sch. para. 3

**116 Compensation for postponement of termination in connection with ineffective claims.**

Schedule 11 (which makes, in relation to claims to enfranchisement or an extended lease under Part I of the Leasehold Reform Act 1967 and claims to collective enfranchisement or a new lease under Chapter I or II of Part I of the <sup>M92</sup>Leasehold Reform, Housing and Urban Development Act 1993, provision for compensation of the landlord where the claim has prolonged an existing tenancy, but is ineffective) shall have effect.

**Marginal Citations**

M92 1993 c. 28.

**117 Priority of interests on grant of new lease.**

After section 58 of the <sup>M93</sup>Leasehold Reform, Housing and Urban Development Act 1993 there shall be inserted—

**“58A Priority of interests on grant of new lease.**

- (1) Where a lease granted under section 56 takes effect subject to two or more interests to which the existing lease was subject immediately before its surrender, the interests shall have the same priority in relation to one another on the grant of the new lease as they had immediately before the surrender of the existing lease.
- (2) Subsection (1) is subject to agreement to the contrary.
- (3) Where a person who is entitled on the grant of a lease under section 56 to rights of occupation in relation to the flat comprised in that lease was entitled immediately before the surrender of the existing lease to rights of occupation in relation to the flat comprised in that lease, the rights to which he is entitled on the grant of the new lease shall be treated as a continuation of the rights to which he was entitled immediately before the surrender of the existing lease.

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(4) In this section—

“the existing lease”, in relation to a lease granted under section 56, means the lease surrendered on the grant of the new lease, and  
 “rights of occupation” has the same meaning as in the <sup>M94</sup>Matrimonial Homes Act 1983.”.

#### Marginal Citations

**M93** 1993 c. 28.

**M94** 1983 c. 19.

### 118 Estate management schemes in connection with enfranchisement by virtue of s. 106.

- (1) Chapter IV of Part I of the 1993 Act, except section 75(1), (estate management schemes in connection with enfranchisement by virtue of that Act) shall also have effect subject to the modifications mentioned in subsections (2) to (4) below.
- (2) In section 69(1) (definition of estate management schemes), for paragraphs (a) and (b) there shall be substituted—
  - “(a) acquiring the landlord’s interest in their house and premises (“the house”) under Part I of the <sup>M95</sup>Leasehold Reform Act 1967 by virtue of the provisions of section 1AA of that Act (as inserted by paragraph 1 of Schedule 9 to the Housing Act 1996), or
  - (b) acquiring the landlord’s interest in any premises (“the premises”) in accordance with Chapter I of this Part of this Act by virtue of the amendments of that Chapter made by paragraph 3 of Schedule 9 to the Housing Act 1996.”.
- (3) In section 70 (time limit for applications for approval), for “two years beginning with the date of the coming into force of this section” there shall be substituted “two years beginning with the coming into force of section 118 of the Housing Act 1996”.
- (4) In section 74 (effect of application for approval on claim to acquire freehold), in subsection (1)—
  - (a) in paragraph (b), in sub-paragraph (i), the words from “being” to the end shall be omitted, and
  - (b) after that paragraph there shall be inserted “and
    - (c) in the case of an application for the approval of a scheme as an estate management scheme, the scheme would extend to the house or premises if acquired in pursuance of the notice.”.
- (5) Section 94(6) to (8) of the 1993 Act (estate management schemes relating to Crown land) shall also have effect with the substitution for any reference to a provision of Chapter IV of Part I of that Act of a reference to that provision as it has effect by virtue of subsection (1) above.
- (6) In section 33 of the <sup>M96</sup>National Heritage Act 1983 (general functions of the Historic Buildings and Monuments Commission for England), after subsection (2B) there shall be inserted—



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“(2C) In subsection (2B), references to provisions of the <sup>M97</sup>Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”.

(7) In section 72 of the <sup>M98</sup>Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects conservation area in exercise of planning functions), at the end there shall be inserted—

“(3) In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.”.

(8) In this section, “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993.

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

**C48** S. 118 restricted (5.3.1997) by [S.I. 1997/618, art.2, Sch. para. 3](#)

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**Marginal Citations**

**M95** 1967 c. 88.

**M96** 1983 c. 47.

**M97** 1993 c. 28.

**M98** 1990 c. 9.

**<sup>F106</sup>119 Leasehold valuation tribunals: pre-trial review.**

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**Textual Amendments**

**F106** S. 119 repealed (30.9.2003 for E., 30.3.2004 for W.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\), s. 181\(1\), Sch. 14; S.I. 2003/1986, art. 2\(c\)\(iv\), Sch. 1 Pt. 1 \(with Sch. 2\); S.I. 2004/669, art. 2\(c\)\(iv\), Sch. 1 Pt. 1 \(with Sch. 2\)](#)

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**Commencement Information**

**I30** S. 119 partly in force; s. 119 not in force at Royal Assent see s. 232(1)-(3); s. 119 in force for certain purposes at 23.8.1996 by [S.I. 1996/2212, art. 2\(1\)](#)

**PART IV**

HOUSING BENEFIT AND RELATED MATTERS

**120 Payment of housing benefit to third parties.**

(1) In section 5 of the <sup>M99</sup>Social Security Administration Act 1992 (regulations about claims for and payments of benefit), after subsection (5) insert—

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“(6) As it has effect in relation to housing benefit subsection (1)(p) above authorises provision requiring the making of payments of benefit to another person, on behalf of the beneficiary, in such circumstances as may be prescribed.”.

- (2) The above amendment shall be deemed always to have had effect; and provision corresponding to that made by the amendment shall be deemed to have had effect at all material times in relation to corresponding earlier enactments.

#### Marginal Citations

M99 1992 c. 5.

### 121 Administration of housing benefit, &c.

Part VIII of the Social Security Administration Act 1992 (arrangements for housing benefit and council tax benefit and related subsidies) is amended in accordance with Schedule 12.

### 122 Functions of rent officers in connection with housing benefit and rent allowance subsidy.

- (1) The Secretary of State may by order require rent officers to carry out such functions as may be specified in the order in connection with housing benefit and rent allowance subsidy.
- (2) Without prejudice to the generality of subsection (1), an order under this section may contain provision—
- (a) enabling a prospective landlord to apply for a determination for the purposes of any application for housing benefit which may be made by a tenant of a dwelling which he proposes to let;
  - (b) as to the payment of a fee by the landlord for that determination;
  - (c) requiring the landlord to give a copy of the determination to the appropriate local authority; and
  - (d) enabling the appropriate local authority to seek a redetermination when a claim for housing benefit or rent allowance subsidy is made.
- (3) Regulations under section 130(4) of the <sup>M100</sup>Social Security Contributions and Benefits Act 1992 (housing benefit: manner of determining appropriate maximum benefit) may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under this section.
- (4) In relation to rent allowance subsidy, the Secretary of State may by order under section 140B of the Social Security Administration Act 1992—
- (a) provide for any calculation under subsection (2) of that section to be made,
  - (b) specify any additions and deductions as are referred to in [<sup>F107</sup>subsection (4) or (5) of that section] , and
  - (c) exercise his discretion as to what is unreasonable for the purposes of subsection [<sup>F108</sup>(5)(b)] of that section,
- by reference to determinations made by rent officers in exercise of functions conferred on them under this section.

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- (5) The Secretary of State may by any such regulations or order as are mentioned in subsection (3) or (4) require a local authority in any prescribed case—
- (a) to apply to a rent officer for a determination to be made in pursuance of the functions conferred on them under this section, and
  - (b) to do so within such time as may be specified in the order or regulations.
- (6) An order under this section—
- (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) may make different provision for different cases or classes of case and for different areas; and
  - (c) may contain such transitional, incidental and supplementary provisions as appear to the Secretary of State to be desirable.
- (7) In this section “housing benefit” and “rent allowance subsidy” have the same meaning as in Part VIII of the <sup>M101</sup>Social Security Administration Act 1992.

#### Textual Amendments

**F107** Words in s. 122(4)(b) substituted (retrospective to 18.9.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(1)(b), [Sch. 7 para. 60\(1\)\(a\)](#)

**F108** Word in s. 122(4)(c) substituted (retrospective to 18.9.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(1)(b), [Sch. 7 para. 60\(1\)\(b\)](#)

#### Marginal Citations

**M100** 1992 c. 4.

**M101** 1992 c. 5.

### 123 Consequential amendments: Part IV.

The enactments mentioned in Schedule 13 have effect with the amendments specified there which are consequential on the provisions of this Part.

## PART V

### CONDUCT OF TENANTS

#### CHAPTER I

##### INTRODUCTORY TENANCIES

###### *General provisions*

### 124 Introductory tenancies.

- (1) A local housing authority or a housing action trust may elect to operate an introductory tenancy regime.

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- (2) When such an election is in force, every periodic tenancy of a dwelling-house entered into or adopted by the authority or trust shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was—
  - (a) a secure tenant of the same or another dwelling-house, or
  - (b) an assured tenant of a registered social landlord (otherwise than under an assured shorthold tenancy) in respect of the same or another dwelling-house.
- (3) Subsection (2) does not apply to a tenancy entered into or adopted in pursuance of a contract made before the election was made.
- (4) For the purposes of this Chapter a periodic tenancy is adopted by a person if that person becomes the landlord under the tenancy, whether on a disposal or surrender of the interest of the former landlord.
- (5) An election under this section may be revoked at any time, without prejudice to the making of a further election.

## **125 Duration of introductory tenancy.**

- (1) A tenancy remains an introductory tenancy until the end of the trial period, unless one of the events mentioned in subsection (5) occurs before the end of that period.
- (2) The “trial period” is the period of one year beginning with—
  - (a) in the case of a tenancy which was entered into by a local housing authority or housing action trust—
    - (i) the date on which the tenancy was entered into, or
    - (ii) if later, the date on which a tenant was first entitled to possession under the tenancy; or
  - (b) in the case of a tenancy which was adopted by a local housing authority or housing action trust, the date of adoption;
 subject as follows.
- (3) Where the tenant under an introductory tenancy was formerly a tenant under another introductory tenancy, or held an assured shorthold tenancy from a registered social landlord, any period or periods during which he was such a tenant shall count towards the trial period, provided—
  - (a) if there was one such period, it ended immediately before the date specified in subsection (2), and
  - (b) if there was more than one such period, the most recent period ended immediately before that date and each period succeeded the other without interruption.
- (4) Where there are joint tenants under an introductory tenancy, the reference in subsection (3) to the tenant shall be construed as referring to the joint tenant in whose case the application of that subsection produces the earliest starting date for the trial period.
- (5) A tenancy ceases to be an introductory tenancy if, before the end of the trial period—
  - (a) the circumstances are such that the tenancy would not otherwise be a secure tenancy,

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- (b) a person or body other than a local housing authority or housing action trust becomes the landlord under the tenancy,
  - (c) the election in force when the tenancy was entered into or adopted is revoked, or
  - (d) the tenancy ceases to be an introductory tenancy by virtue of section 133(3) (succession).
- (6) A tenancy does not come to an end merely because it ceases to be an introductory tenancy, but a tenancy which has once ceased to be an introductory tenancy cannot subsequently become an introductory tenancy.
- (7) This section has effect subject to section 130 (effect of beginning proceedings for possession).

### [<sup>F109</sup>125A] Extension of trial period by 6 months

- (1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months.
- (2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.
- (3) The second condition is that either—
  - (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or
  - (b) if he has, the decision on the review was to confirm the landlord’s decision to extend the trial period.
- (4) A notice of extension is a notice—
  - (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and
  - (b) complying with subsection (5).
- (5) A notice of extension must—
  - (a) set out the reasons for the landlord’s decision, and
  - (b) inform the tenant of his right to request a review of the landlord’s decision and of the time within which such a request must be made.
- (6) In this section and section 125B “the original expiry date” means the last day of the period of one year that would apply as the trial period apart from this section.

#### Textual Amendments

**F109** Ss. 125A, 125B inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), ss. 179(3), 270(2)(b) (with s. 179(4))

### 125B Review of decision to extend trial period

- (1) A request for review of the landlord’s decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served.
- (2) On a request being duly made to it, the landlord shall review its decision.

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- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

- (4) Provision may be made by regulations—
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the tenant of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

- (6) The review shall be carried out and the tenant notified before the original expiry date.]

**Textual Amendments**

**F109** Ss. 125A, 125B inserted (18.11.2004 for specified purposes) by [Housing Act 2004 \(c. 34\)](#), **ss. 179(3), 270(2)(b)** (with [s. 179\(4\)](#))

**126 Licences.**

- (1) The provisions of this Chapter apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.
- (2) Subsection (1) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

*Proceedings for possession*

**127 Proceedings for possession.**

- (1) The landlord may only bring an introductory tenancy to an end by obtaining an order of the court for the possession of the dwelling-house.
- (2) The court shall make such an order unless the provisions of section 128 apply.
- (3) Where the court makes such an order, the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

**128 Notice of proceedings for possession.**

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under an introductory tenancy unless the landlord has served on the tenant a notice of proceedings complying with this section.
- (2) The notice shall state that the court will be asked to make an order for the possession of the dwelling-house.

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- (3) The notice shall set out the reasons for the landlord's decision to apply for such an order.
- (4) The notice shall specify a date after which proceedings for the possession of the dwelling-house may be begun.  

The date so specified must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.
- (5) The court shall not entertain any proceedings for possession of the dwelling-house unless they are begun after the date specified in the notice of proceedings.
- (6) The notice shall inform the tenant of his right to request a review of the landlord's decision to seek an order for possession and of the time within which such a request must be made.
- (7) The notice shall also inform the tenant that if he needs help or advice about the notice, and what to do about it, he should take it immediately to a Citizens' Advice Bureau, a housing aid centre, a law centre or a solicitor.

## 129 Review of decision to seek possession.

- (1) A request for review of the landlord's decision to seek an order for possession of a dwelling-house let under an introductory tenancy must be made before the end of the period of 14 days beginning with the day on which the notice of proceedings is served.
- (2) On a request being duly made to it, the landlord shall review its decision.
- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

- (4) Provision may be made by regulations—
  - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the person concerned of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

- (6) The review shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.

### Commencement Information

**I31** S. 129 wholly in force 4.2.1997: s. 129 not in force at Royal Assent, see s. 232(1)-(3); s. 129(3)(4) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 129(1)(2)(5)(6) in force at 4.2.1997 by [S.I. 1997/66](#), [art. 2](#)

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### **130 Effect of beginning proceedings for possession.**

- (1) This section applies where the landlord has begun proceedings for the possession of a dwelling-house let under an introductory tenancy and—
  - (a) the trial period ends, or
  - (b) any of the events specified in section 125(5) occurs (events on which a tenancy ceases to be an introductory tenancy).
- (2) Subject to the following provisions, the tenancy remains an introductory tenancy until—
  - (a) the tenancy comes to an end in pursuance of section 127(3) (that is, on the date on which the tenant is to give up possession in pursuance of an order of the court), or
  - (b) the proceedings are otherwise finally determined.
- (3) If any of the events specified in section 125(5)(b) to (d) occurs, the tenancy shall thereupon cease to be an introductory tenancy but—
  - (a) the landlord (or, as the case may be, the new landlord) may continue the proceedings, and
  - (b) if he does so, section 127(2) and (3) (termination by landlord) apply as if the tenancy had remained an introductory tenancy.
- (4) Where in accordance with subsection (3) a tenancy ceases to be an introductory tenancy and becomes a secure tenancy, the tenant is not entitled to exercise the right to buy under Part V of the <sup>M102</sup>Housing Act 1985 unless and until the proceedings are finally determined on terms such that he is not required to give up possession of the dwelling-house.
- (5) For the purposes of this section proceedings shall be treated as finally determined if they are withdrawn or any appeal is abandoned or the time for appealing expires without an appeal being brought.

#### **Marginal Citations**

**M102** 1985 c. 68.

### *Succession on death of tenant*

### **131 Persons qualified to succeed tenant.**

A person is qualified to succeed the tenant under an introductory tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant's death and either—

- (a) he is the tenant's spouse, or
- (b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless, in either case, the tenant was himself a successor, as defined in section 132.

### **132 Cases where the tenant is a successor.**

- (1) The tenant is himself a successor if—



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- (a) the tenancy vested in him by virtue of section 133 (succession to introductory tenancy),
  - (b) he was a joint tenant and has become the sole tenant,
  - (c) he became the tenant on the tenancy being assigned to him (but subject to subsections (2) and (3)), or
  - (d) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the <sup>M103</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the <sup>M104</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.) is a successor only if the other party to the marriage was a successor.
- (3) Where within six months of the coming to an end of an introductory tenancy (“the former tenancy”) the tenant becomes a tenant under another introductory tenancy, and—
  - (a) the tenant was a successor in relation to the former tenancy, and
  - (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

#### Marginal Citations

M103 1973 c. 18.

M104 1984 c. 42.

### 133 Succession to introductory tenancy.

- (1) This section applies where a tenant under an introductory tenancy dies.
- (2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this section in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—
  - (a) the tenant’s spouse is to be preferred to another member of the tenant’s family;
  - (b) of two or more other members of the tenant’s family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be an introductory tenancy—
  - (a) when it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, unless the vesting or other disposal is in pursuance of an order made under—
    - (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings),
    - (ii) section 17(1) of the <sup>M105</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the <sup>M106</sup>Children Act 1989 (orders for financial relief against parents); or

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- (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.

**Marginal Citations**

**M105** 1984 c. 42.

**M106** 1989 c. 41.

*Assignment*

**134 Assignment in general prohibited.**

- (1) An introductory tenancy is not capable of being assigned except in the cases mentioned in subsection (2).
- (2) The exceptions are—
- (a) an assignment in pursuance of an order made under—
    - (i) section 24 of the <sup>M107</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);
  - (b) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.
- (3) Subsection (1) also applies to a tenancy which is not an introductory tenancy but would be if the tenant, or where the tenancy is a joint tenancy, at least one of the tenants, were occupying or continuing to occupy the dwelling-house as his only or principal home.

**Marginal Citations**

**M107** 1973 c. 18.

*Repairs*

**135 Right to carry out repairs.**

The Secretary of State may by regulations under section 96 of the <sup>M108</sup>Housing Act 1985 (secure tenants: right to carry out repairs) apply to introductory tenants any provision made under that section in relation to secure tenants.

**Marginal Citations**

**M108** 1985 c. 68.

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### *Provision of information and consultation*

#### **136 Provision of information about tenancies.**

(1) Every local housing authority or housing action trust which lets dwelling-houses under introductory tenancies shall from time to time publish information about its introductory tenancies, in such form as it considers best suited to explain in simple terms, and, so far as it considers it appropriate, the effect of—

- (a) the express terms of its introductory tenancies,
- (b) the provisions of this Chapter, and
- (c) the provisions of sections 11 to 16 of the <sup>M109</sup>Landlord and Tenant Act 1985 (landlord's repairing obligations),

and shall ensure that so far as is reasonably practicable the information so published is kept up to date.

(2) The landlord under an introductory tenancy shall supply the tenant with—

- (a) a copy of the information for introductory tenants published by it under subsection (1), and
- (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;

and the statement required by paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

#### **Marginal Citations**

**M109** 1985 c. 70.

#### **137 Consultation on matters of housing management.**

(1) This section applies in relation to every local housing authority and housing action trust which lets dwelling-houses under introductory tenancies and which is a landlord authority for the purposes of Part IV of the <sup>M110</sup>Housing Act 1985 (secure tenancies).

(2) The authority or trust shall maintain such arrangements as it considers appropriate to enable those of its introductory tenants who are likely to be substantially affected by a relevant matter of housing management—

- (a) to be informed of the proposals of the authority or trust in respect of the matter, and
- (b) to make their views known to the authority or trust within a specified period; and the authority or trust shall, before making a decision on the matter, consider any representations made to it in accordance with those arrangements.

(3) A matter is one of housing management if, in the opinion of the authority or trust concerned, it relates to—

- (a) the management, improvement, maintenance or demolition of dwelling-houses let by the authority or trust under introductory or secure tenancies, or
- (b) the provision of services or amenities in connection with such dwelling-houses;

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but not so far as it relates to the rent payable under an introductory or secure tenancy or to charges for services or facilities provided by the authority or trust.

- (4) A matter is relevant if, in the opinion of the authority or trust concerned, it represents—
- (a) a new programme of maintenance, improvement or demolition, or
  - (b) a change in the practice or policy of the authority or trust,
- and is likely substantially to affect either its introductory tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).
- (5) In the case of a local housing authority, the reference in subsection (3) to the provision of services or amenities is a reference only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.
- (6) The authority or trust shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—
- (a) be made available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and
  - (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

**Marginal Citations**

**M110** 1985 c. 68.

*Supplementary*

**138 Jurisdiction of county court.**

- (1) A county court has jurisdiction to determine questions arising under this Chapter and to entertain proceedings brought under this Chapter and claims, for whatever amount, in connection with an introductory tenancy.
- (2) That jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 136(2)(b) (written statement of certain terms of tenancy) is accurate notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section.
- (5) The rules and directions may provide—
  - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section, and
  - (b) for the conduct of proceedings in private.
- (6) The power to make rules is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### Commencement Information

- I32** S. 138 wholly in force 4.2.1997: s. 138 not in force at Royal Assent, see s. 232(1)-(3); s. 138(4)-(6) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 138(1)-(3) in force at 4.2.1997 by [S.I. 1997/66](#), [art. 2](#)

#### 139 Meaning of “dwelling-house”.

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house shall be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part IV of the <sup>M111</sup>Housing Act 1985 (see section 112(2) of that Act).

#### Marginal Citations

- M111** 1985 c. 68.

#### 140 Members of a person’s family: Chapter I.

- (1) A person is a member of another’s family within the meaning of this Chapter if—
  - (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
  - (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
  - (c) the stepchild of a person shall be treated as his child.

#### 141 Consequential amendments: introductory tenancies.

- (1) The enactments mentioned in Schedule 14 have effect with the amendments specified there which are consequential on the provisions of this Chapter.
- (2) The Secretary of State may by order make such other amendments or repeals of any enactment as appear to him necessary or expedient in consequence of the provisions of this Chapter.
- (3) Without prejudice to the generality of subsection (2), an order under that subsection may make such provision in relation to an enactment as the Secretary of State considers appropriate as regards its application (with or without modifications) or non-application in relation to introductory tenants or introductory tenancies.

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### Commencement Information

- I33** S. 14 wholly in force 4.2.1997; s. 141 not in force at Royal Assent, see s. 232(1)-(3); s. 141(2)(3) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 141(1) in force at 4.2.1997 by [S.I. 1997/66](#), [art. 2](#)

## 142 Regulations and orders.

Any regulations or order under this Part—

- (a) may contain such incidental, supplementary or transitional provisions, or savings, as the Secretary of State thinks fit, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 143 Index of defined expressions: introductory tenancies.

The following Table shows provisions defining or otherwise explaining provisions used in this Chapter (other than provisions defining or explaining an expression in the same section)—

adopt (in relation to periodic tenancy)	section 124(4)
assured tenancy and assured shorthold tenancy	section 230
dwelling-house	section 139
housing action trust	section 230
introductory tenancy and introductory tenant	section 124
local housing authority	section 230
member of family	section 140
registered social landlord	section 2
secure tenancy and secure tenant	section 230

## [<sup>F110</sup>CHAPTER 1A

### Textual Amendments

- F110** Pt. 5 Ch. 1A inserted (30.6.2004 for E., 30.9.2004 for W. for specified purposes, 30.4.2005 for W. so far as not already in force) by [Anti Social Behaviour Act 2003 \(c. 38\)](#), s. 93, [Sch. 1 para. 1](#); [S.I. 2004/1502](#), [art. 2\(a\)\(iii\)](#); [S.I. 2004/2557](#), [art. 2\(a\)\(ii\)](#); [S.I. 2005/1225](#), [art. 2\(b\)](#)

### *General provisions*

#### *Demoted tenancies*

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### **143A Demoted tenancies**

- (1) This section applies to a periodic tenancy of a dwelling-house if each of the following conditions is satisfied.
- (2) The first condition is that the landlord is either a local housing authority or a housing action trust.
- (3) The second condition is that the tenant condition in section 81 of the Housing Act 1985 is satisfied.
- (4) The third condition is that the tenancy is created by virtue of a demotion order under section 82A of that Act.
- (5) In this Chapter—
  - (a) a tenancy to which this section applies is referred to as a demoted tenancy;
  - (b) references to demoted tenants must be construed accordingly.

#### *Duration of demoted tenancy*

### **143B Duration of demoted tenancy**

- (1) A demoted tenancy becomes a secure tenancy at the end of the period of one year (the demotion period) starting with the day the demotion order takes effect; but this is subject to subsections (2) to (5).
- (2) A tenancy ceases to be a demoted tenancy if any of the following paragraphs applies—
  - (a) either of the first or second conditions in section 143A ceases to be satisfied;
  - (b) the demotion order is quashed;
  - (c) the tenant dies and no one is entitled to succeed to the tenancy.
- (3) If at any time before the end of the demotion period the landlord serves a notice of proceedings for possession of the dwelling-house subsection (4) applies.
- (4) The tenancy continues as a demoted tenancy until the end of the demotion period or (if later) until any of the following occurs—
  - (a) the notice of proceedings is withdrawn by the landlord;
  - (b) the proceedings are determined in favour of the tenant;
  - (c) the period of 6 months beginning with the date on which the notice is served ends and no proceedings for possession have been brought.
- (5) A tenancy does not come to an end merely because it ceases to be a demoted tenancy.

#### *Change of landlord*

### **143C Change of landlord**

- (1) A tenancy continues to be a demoted tenancy for the duration of the demotion period if—
  - (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to another person who is a local housing authority or a housing action trust.
- (2) Subsections (3) and (4) apply if—

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- (a) at the time the demoted tenancy is created the interest of the landlord belongs to a local housing authority or a housing action trust, and
  - (b) during the demotion period the interest of the landlord transfers to a person who is not such a body.
- (3) If the new landlord is a registered social landlord or a person who does not satisfy the landlord condition the tenancy becomes an assured shorthold tenancy.
- (4) If the new landlord is not a registered social landlord and does satisfy the landlord condition the tenancy becomes a secure tenancy.
- (5) The landlord condition must be construed in accordance with section 80 of the Housing Act 1985.]

*[<sup>F110</sup>Proceedings for possession*

*Proceedings for possession*

**143D Proceedings for possession**

- (1) The landlord may only bring a demoted tenancy to an end by obtaining an order of the court for possession of the dwelling-house.
- (2) The court must make an order for possession unless it thinks that the procedure under sections 143E and 143F has not been followed.
- (3) If the court makes such an order the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

*Notice of proceedings for possession*

**143E Notice of proceedings for possession**

- (1) Proceedings for possession of a dwelling-house let under a demoted tenancy must not be brought unless the landlord has served on the tenant a notice of proceedings under this section.
- (2) The notice must—
  - (a) state that the court will be asked to make an order for the possession of the dwelling-house;
  - (b) set out the reasons for the landlord’s decision to apply for the order;
  - (c) specify the date after which proceedings for the possession of the dwelling-house may be begun;
  - (d) inform the tenant of his right to request a review of the landlord’s decision and of the time within which the request must be made.
- (3) The date specified under subsection (2)(c) must not be earlier than the date on which the tenancy could (apart from this Chapter) be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.
- (4) The court must not entertain proceedings begun on or before the date specified under subsection (2)(c).
- (5) The notice must also inform the tenant that if he needs help or advice—
  - (a) about the notice, or
  - (b) about what to do about the notice,



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he must take the notice immediately to a Citizen’s Advice Bureau, a housing aid centre, a law centre or a solicitor.

### *Review of decision to seek possession*

#### **143F Review of decision to seek possession**

- (1) Before the end of the period of 14 days beginning with the date of service of a notice for possession of a dwelling-house let under a demoted tenancy the tenant may request the landlord to review its decision to seek an order for possession.
- (2) If a request is made in accordance with subsection (1) the landlord must review the decision.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with a review under this section.
- (4) The regulations may include provision—
  - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision;
  - (b) as to the circumstances in which the tenant is entitled to an oral hearing, and whether and by whom he may be represented at the hearing.
- (5) The landlord must notify the tenant—
  - (a) of the decision on the review;
  - (b) of the reasons for the decision.
- (6) The review must be carried out and notice given under subsection (5) before the date specified in the notice of proceedings as the date after which proceedings for possession of the dwelling-house may be begun.

### *Effect of proceedings for possession*

#### **143G Effect of proceedings for possession**

- (1) This section applies if the landlord has begun proceedings for the possession of a dwelling-house let under a demoted tenancy and—
  - (a) the demotion period ends, or
  - (b) any of paragraphs (a) to (c) of section 143B(2) applies (circumstances in which a tenancy ceases to be a demoted tenancy).
- (2) If any of paragraphs (a) to (c) of section 143B(2) applies the tenancy ceases to be a demoted tenancy but the landlord (or the new landlord as the case may be) may continue the proceedings.
- (3) Subsection (4) applies if in accordance with subsection (2) a tenancy ceases to be a demoted tenancy and becomes a secure tenancy.
- (4) The tenant is not entitled to exercise the right to buy unless—
  - (a) the proceedings are finally determined, and
  - (b) he is not required to give up possession of the dwelling-house.
- (5) The proceedings must be treated as finally determined if—
  - (a) they are withdrawn;
  - (b) any appeal is abandoned;

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- (c) the time for appealing expires without an appeal being brought.]

### *[<sup>F110</sup>Succession*

#### *Succession to demoted tenancy*

#### **143H Succession to demoted tenancy**

- (1) This section applies if the tenant under a demoted tenancy dies.
- (2) If the tenant was a successor, the tenancy—
  - (a) ceases to be a demoted tenancy, but
  - (b) does not become a secure tenancy.
- (3) In any other case a person is qualified to succeed the tenant if—
  - (a) he occupies the dwelling-house as his only or principal home at the time of the tenant's death,
  - (b) he is a member of the tenant's family, and
  - (c) he has resided with the tenant throughout the period of 12 months ending with the tenant's death.
- (4) If only one person is qualified to succeed under subsection (3) the tenancy vests in him by virtue of this section.
- (5) If there is more than one such person the tenancy vests by virtue of this section in the person preferred in accordance with the following rules—
  - (a) the tenant's spouse or (if the tenant has no spouse) the person mentioned in section 143P(1)(b) is to be preferred to another member of the tenant's family;
  - (b) if there are two or more other members of the tenant's family the person preferred may be agreed between them or (if there is no such agreement) selected by the landlord.

#### *No successor tenant: termination*

#### **143I No successor tenant: termination**

- (1) This section applies if the demoted tenant dies and no person is qualified to succeed to the tenancy as mentioned in section 143H(3).
- (2) The tenancy ceases to be a demoted tenancy if either subsection (3) or (4) applies.
- (3) This subsection applies if the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate unless the vesting or other disposal is in pursuance of an order under—
  - (a) section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (4) This subsection applies if it is known that when the tenancy is vested or otherwise disposed of in the course of the administration of the tenant's estate it will not be in pursuance of an order mentioned in subsection (3).

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- (5) A tenancy which ceases to be a demoted tenancy by virtue of this section cannot subsequently become a secure tenancy.

### *Successor tenants*

#### **143J Successor tenants**

- (1) This section applies for the purpose of sections 143H and 143I.
- (2) A person is a successor to a secure tenancy which is terminated by a demotion order if any of subsections (3) to (6) applies to him.
- (3) The tenancy vested in him—
  - (a) by virtue of section 89 of the Housing Act 1985 or section 133 of this Act;
  - (b) under the will or intestacy of the preceding tenant.
- (4) The tenancy arose by virtue of section 86 of the Housing Act 1985 and the original fixed term was granted—
  - (a) to another person, or
  - (b) to him jointly with another person.
- (5) He became the tenant on the tenancy being assigned to him unless—
  - (a) the tenancy was assigned in proceedings under section 23A or 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc), and
  - (b) neither he nor the other party to the marriage was a successor.
- (6) He became the tenant on assignment under section 92 of the Housing Act 1985 if he himself was a successor to the tenancy which he assigned in exchange.
- (7) A person is the successor to a demoted tenancy if the tenancy vested in him by virtue of section 143H(4) or (5).
- (8) A person is the successor to a joint tenancy if he has become the sole tenant.]

#### *[<sup>F110</sup>Assignment*

### *Restriction on assignment*

#### **143K Restriction on assignment**

- (1) A demoted tenancy is not capable of being assigned except as mentioned in subsection (2).
- (2) The exceptions are assignment in pursuance of an order made under—
  - (a) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (b) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, etc.);
  - (c) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).]

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### *[<sup>F110</sup>Repairs*

#### *Right to carry out repairs*

#### **143L Right to carry out repairs**

The Secretary of State may by regulations under section 96 of the Housing Act 1985 (secure tenants: right to carry out repairs) apply to demoted tenants any provision made under that section in relation to secure tenants.]

### *[<sup>F110</sup>Provision of information*

#### *Provision of information*

#### **143M Provision of information**

- (1) This section applies to a local housing authority or a housing action trust if it is the landlord of a demoted tenancy.
- (2) The landlord must from time to time publish information about the demoted tenancy in such form as it thinks best suited to explain in simple terms and so far as it considers appropriate the effect of—
  - (a) the express terms of the demoted tenancy;
  - (b) the provisions of this Chapter;
  - (c) the provisions of sections 11 to 16 of the Landlord and Tenant Act 1985 (landlord’s repairing obligations).
- (3) The landlord must ensure that information published under subsection (2) is, so far as is reasonably practicable, kept up to date.
- (4) The landlord must supply the tenant with—
  - (a) a copy of the information published under subsection (2);
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law.
- (5) The statement required by subsection (4)(b) must be supplied on the grant of the tenancy or as soon as practicable afterwards.]

### *[<sup>F110</sup>Supplementary*

#### *Jurisdiction of county court*

#### **143N Jurisdiction of county court**

- (1) A county court has jurisdiction—
  - (a) to determine questions arising under this Chapter;
  - (b) to entertain proceedings brought under this Chapter;
  - (c) to determine claims (for whatever amount) in connection with a demoted tenancy.
- (2) The jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of section 143M(4)(b) (written statement of certain terms of tenancy) is accurate.

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- (3) For the purposes of subsection (2) it is immaterial that no relief other than a declaration is sought.
- (4) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court he is not entitled to recover any costs.
- (5) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purposes of giving effect to this section.
- (6) The rules and directions may provide—
  - (a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this section;
  - (b) for the conduct of proceedings in private.
- (7) The power to make rules must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Meaning of dwelling house*

### **143O Meaning of dwelling house**

- (1) For the purposes of this Chapter a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house must be treated for the purposes of this Chapter as part of the dwelling-house unless the land is agricultural land which would not be treated as part of a dwelling-house for the purposes of Part 4 of the Housing Act 1985.

#### *Members of a person's family*

### **143P Members of a person's family**

- (1) For the purposes of this Chapter a person is a member of another's family if—
  - (a) he is the spouse of that person;
  - (b) he and that person live together as a couple in an enduring family relationship, but he does not fall within paragraph (c);
  - (c) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b) it is immaterial that two persons living together in an enduring family relationship are of the same sex.
- (3) For the purposes of subsection (1)(c)—
  - (a) a relationship by marriage must be treated as a relationship by blood;
  - (b) a relationship of the half-blood must be treated as a relationship of the whole blood;
  - (c) a stepchild of a person must be treated as his child.]

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## CHAPTER II

### REPOSSESSION, &c.: SECURE AND ASSURED TENANCIES

#### *Secure tenancies*

#### 144 Extension of ground of nuisance or annoyance to neighbours, &c.

For Ground 2 in Schedule 2 to the <sup>M112</sup>Housing Act 1985 (nuisance or annoyance to neighbours, &c.) substitute—

##### **Ground 2**

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

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

**C49** S. 144 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

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##### **Marginal Citations**

**M112** 1985 c. 68.

#### 145 New ground of domestic violence: secure tenancies.

After Ground 2 in Schedule 2 to the <sup>M113</sup>Housing Act 1985 (as substituted by section 144) insert—

##### **Ground 2A**

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return.”.

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

**C50** S. 145 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

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**Marginal Citations**

M113 1985 c. 68.

**146 Extension of ground that grant of tenancy induced by false statement.**

In Ground 5 in Schedule 2 to the Housing Act 1985 (grant of tenancy induced by false statement) for “by the tenant” substitute “by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation”.

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

C51 S. 146 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

**147 Proceedings for possession or termination.**

- (1) For section 83 of the Housing Act 1985 (notice of proceedings for possession or termination) substitute—

**“83 Proceedings for possession or termination: notice requirements.**

- (1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy or proceedings for the termination of a secure tenancy unless—
- (a) the landlord has served a notice on the tenant complying with the provisions of this section, or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (2) A notice under this section shall—
- (a) be in a form prescribed by regulations made by the Secretary of State,
  - (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy, and
  - (c) give particulars of that ground.
- (3) Where the tenancy is a periodic tenancy and the ground or one of the grounds specified in the notice is Ground 2 in Schedule 2 (nuisance or other anti-social behaviour), the notice—
- (a) shall also—
    - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
    - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
  - (b) ceases to be in force twelve months after the date so specified.
- (4) Where the tenancy is a periodic tenancy and Ground 2 in Schedule 2 is not specified in the notice, the notice—

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- (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force twelve months after the date so specified.
- (5) The date specified in accordance with subsection (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (6) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsections (3) to (5) of this section do not apply to the notice.
- (7) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

### **83A Additional requirements in relation to certain proceedings for possession.**

- (1) Where a notice under section 83 has been served on a tenant containing the information mentioned in subsection (3)(a) of that section, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.
- (2) Where—
- (a) a notice under section 83 has been served on a tenant, and
  - (b) a date after which proceedings may be begun has been specified in the notice in accordance with subsection (4)(a) of that section,
- the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.
- (3) Where—
- (a) the ground or one of the grounds specified in a notice under section 83 is Ground 2A in Schedule 2 (domestic violence), and
  - (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,
- the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.
- This subsection has effect subject to subsection (5).
- (4) Where—
- (a) Ground 2A in Schedule 2 is added to a notice under section 83 with the leave of the court after proceedings for possession are begun, and
  - (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,



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the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under subsection (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This subsection has effect subject to subsection (5).

(5) Where subsection (3) or (4) applies and Ground 2 in Schedule 2 (nuisance or other anti-social behaviour) is also specified in the notice under section 83, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this subsection shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.”.

(2) In section 84 of that Act (grounds and orders for possession), for subsection (3) substitute—

“(3) Where a notice under section 83 has been served on the tenant, the court shall not make such an order on any of those grounds above unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

(4) Where a date is specified in a notice under section 83 in accordance with subsection (3) of that section, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.”.

(3) In Schedule 2 to that Act, in Ground 16, after “notice of the proceedings for possession was served under section 83” insert “ (or, where no such notice was served, the proceedings for possession were begun) ”.

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

**C52** S. 147 restricted (14.1.1997) by [S.I. 1997/66](#), [art. 2](#), Sch.

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**Commencement Information**

**I34** S. 147 wholly in force 4.2.1997: s. 147 not in force at Royal Assent, see s. 232(1)-(3); s. 147 in force for certain purposes at 1.10.1996 by [S.I. 1996/2402](#), [art. 4](#) and s. 147 in force at 4.2.1997 to the extent it is not already in force by [S.I. 1997/66](#), [art. 2](#)

*Assured tenancies*

**148 Extension of ground of nuisance or annoyance to adjoining occupiers &c.**

For Ground 14 in Schedule 2 to the <sup>M114</sup>Housing Act 1988 (nuisance or annoyance to adjoining occupiers etc.) substitute—

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### Ground 14

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

#### Marginal Citations

M114 1988 c. 50.

### 149 New ground of domestic violence: assured tenancies.

After Ground 14 in Schedule 2 to the Housing Act 1988 (as substituted by section 148) insert—

#### Ground 14A

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) the landlord who is seeking possession is a registered social landlord or a charitable housing trust,
- (c) one partner has left the dwelling-house because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (d) the court is satisfied that the partner who has left is unlikely to return.

For the purposes of this ground “registered social landlord” and “member of the family” have the same meaning as in Part I of the <sup>M115</sup>Housing Act 1996 and “charitable housing trust” means a housing trust, within the meaning of the <sup>M116</sup>Housing Associations Act 1985, which is a charity within the meaning of the Charities Act 1993.”.

#### Commencement Information

I35 S. 149 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

#### Marginal Citations

M115 1985 c. 69.

M116 1993 c. 10.

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## 150 Additional notice requirements: domestic violence.

After section 8 of the Housing Act 1988 insert—

### “8A Additional notice requirements: ground of domestic violence.

- (1) Where the ground specified in a notice under section 8 (whether with or without other grounds) is Ground 14A in Schedule 2 to this Act and the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house, the court shall not entertain proceedings for possession of the dwelling-house unless—
  - (a) the landlord or, in the case of joint landlords, at least one of them has served on the partner who has left a copy of the notice or has taken all reasonable steps to serve a copy of the notice on that partner, or
  - (b) the court considers it just and equitable to dispense with such requirements as to service.
- (2) Where Ground 14A in Schedule 2 to this Act is added to a notice under section 8 with the leave of the court after proceedings for possession are begun and the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings, the court shall not continue to entertain the proceedings unless—
  - (a) the landlord or, in the case of joint landlords, at least one of them has served a notice under subsection (3) below on the partner who has left or has taken all reasonable steps to serve such a notice on that partner, or
  - (b) the court considers it just and equitable to dispense with the requirement of such a notice.
- (3) A notice under this subsection shall—
  - (a) state that proceedings for the possession of the dwelling-house have begun,
  - (b) specify the ground or grounds on which possession is being sought, and
  - (c) give particulars of the ground or grounds.”.

#### Commencement Information

**I36** S. 150 wholly in force at 28.2.1997 by S.I. 1997/225, art. 2 (subject to savings in the Sch. to that S.I.)

## 151 Early commencement of certain proceedings for possession.

- (1) Section 8 of the <sup>M117</sup>Housing Act 1988 (notice of proceedings for possession) is amended as follows.
- (2) In subsection (1)(a) for the words “subsections (3) and (4)” substitute “ subsections (3) to (4B) ”.
- (3) In subsection (3)(b) for the words from “which,” to “of the notice” substitute “ in accordance with subsections (4) to (4B) below ”.
- (4) For subsection (4) substitute—
  - “(4) If a notice under this section specifies in accordance with subsection (3)(a) above Ground 14 in Schedule 2 to this Act (whether with or without other

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grounds), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the date of the service of the notice.

(4A) If a notice under this section specifies in accordance with subsection (3)(a) above, any of Grounds 1, 2, 5 to 7, 9 and 16 in Schedule 2 to this Act (whether without other grounds or with any ground other than Ground 14), the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than—

- (a) two months from the date of service of the notice; and
- (b) if the tenancy is a periodic tenancy, the earliest date on which, apart from section 5(1) above, the tenancy could be brought to an end by a notice to quit given by the landlord on the same date as the date of service of the notice under this section.

(4B) In any other case, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the expiry of the period of two weeks from the date of the service of the notice.”

**Commencement Information**  
**I37** S. 151 wholly in force at 28.2.1997 by [S.I. 1997/225](#), [art. 2](#) (subject to savings in the Sch. to that S.I.)

**Marginal Citations**  
**M117** 1988 c. 50.

### CHAPTER III

#### INJUNCTIONS AGAINST ANTI-SOCIAL BEHAVIOUR

#### <sup>F111</sup>**152 Power to grant injunctions against anti-social behaviour.**

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**Textual Amendments**  
**F111** S. 152 repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. [13\(2\)](#), [93](#), [Sch. 3](#); [S.I. 2004/1502](#), [art. 2\(a\)\(c\)\(ii\)\(ii\)](#) (with [Sch. para. 1](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(i\)](#) (with [Sch. para. 1](#))

#### <sup>F112</sup>**153 Power of arrest for breach of other injunctions against anti-social behaviour.**

.....

**Textual Amendments**  
**F112** S. 153 repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. [13\(2\)](#), [93](#), [Sch. 3](#); [S.I. 2004/1502](#), [art. 2\(a\)\(c\)\(ii\)\(ii\)](#) (with [Sch. para. 1](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(i\)](#) (with [Sch. para. 1](#))

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## [<sup>F113</sup> 153A Anti-social behaviour injunction

- (1) This section applies to conduct—
  - (a) which is capable of causing nuisance or annoyance to any person, and
  - (b) which directly or indirectly relates to or affects the housing management functions of a relevant landlord.
- (2) The court on the application of a relevant landlord may grant an injunction (an anti-social behaviour injunction) if each of the following two conditions is satisfied.
- (3) The first condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in conduct to which this section applies.
- (4) The second condition is that the conduct is capable of causing nuisance or annoyance to any of the following—
  - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by the relevant landlord;
  - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a);
  - (c) a person engaged in lawful activity in or in the neighbourhood of housing accommodation mentioned in paragraph (a);
  - (d) a person employed (whether or not by the relevant landlord) in connection with the exercise of the relevant landlord's housing management functions.
- (5) It is immaterial where conduct to which this section applies occurs.
- (6) An anti-social behaviour injunction prohibits the person in respect of whom it is granted from engaging in conduct to which this section applies.

### Textual Amendments

**F113** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

## 153B Injunction against unlawful use of premises

- (1) This section applies to conduct which consists of or involves using or threatening to use housing accommodation owned or managed by a relevant landlord for an unlawful purpose.
- (2) The court on the application of the relevant landlord may grant an injunction prohibiting the person in respect of whom the injunction is granted from engaging in conduct to which this section applies.

### Textual Amendments

**F113** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

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### 153C Injunctions: exclusion order and power of arrest

- (1) This section applies if the court grants an injunction under subsection (2) of section 153A or 153B and it thinks that either of the following paragraphs applies—
  - (a) the conduct consists of or includes the use or threatened use of violence;
  - (b) there is a significant risk of harm to a person mentioned in section 153A(4).
- (2) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
  - (a) any premises specified in the injunction;
  - (b) any area specified in the injunction.
- (3) The court may attach a power of arrest to any provision of the injunction.

#### Textual Amendments

**F113** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153D Injunction against breach of tenancy agreement

- (1) This section applies if a relevant landlord applies for an injunction against a tenant in respect of the breach or anticipated breach of a tenancy agreement on the grounds that the tenant—
  - (a) is engaging or threatening to engage in conduct that is capable of causing nuisance or annoyance to any person, or
  - (b) is allowing, inciting or encouraging any other person to engage or threaten to engage in such conduct.
- (2) The court may proceed under subsection (3) or (4) if it is satisfied—
  - (a) that the conduct includes the use or threatened use of violence, or
  - (b) that there is a significant risk of harm to any person.
- (3) The court may include in the injunction a provision prohibiting the person in respect of whom it is granted from entering or being in—
  - (a) any premises specified in the injunction;
  - (b) any area specified in the injunction.
- (4) The court may attach a power of arrest to any provision of the injunction.
- (5) Tenancy agreement includes any agreement for the occupation of residential accommodation owned or managed by a relevant landlord.

#### Textual Amendments

**F113** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 153E Injunctions: supplementary

- (1) This section applies for the purposes of sections 153A to 153D.

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- (2) An injunction may—
  - (a) be made for a specified period or until varied or discharged;
  - (b) have the effect of excluding a person from his normal place of residence.
- (3) An injunction may be varied or discharged by the court on an application by—
  - (a) the person in respect of whom it is made;
  - (b) the relevant landlord.
- (4) If the court thinks it just and convenient it may grant or vary an injunction without the respondent having been given such notice as is otherwise required by rules of court.
- (5) If the court acts under subsection (4) it must give the person against whom the injunction is made an opportunity to make representations in relation to the injunction as soon as it is practicable for him to do so.
- (6) The court is the High Court or a county court.
- (7) Each of the following is a relevant landlord—
  - (a) a housing action trust;
  - (b) a local authority (within the meaning of the Housing Act 1985);
  - (c) a registered social landlord.
- (8) A charitable housing trust which is not a registered social landlord is also a relevant landlord for the purposes of section 153D.
- (9) Housing accommodation includes—
  - (a) flats, lodging-houses and hostels;
  - (b) any yard, garden, outhouses and appurtenances belonging to the accommodation or usually enjoyed with it;
  - (c) in relation to a neighbourhood, the whole of the housing accommodation owned or managed by a relevant landlord in the neighbourhood and any common areas used in connection with the accommodation.
- (10) A landlord owns housing accommodation if either of the following paragraphs applies to him—
  - (a) he is a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion;
  - (b) he is a person who holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than three years.
- (11) The housing management functions of a relevant landlord include—
  - (a) functions conferred by or under any enactment;
  - (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation.
- (12) Harm includes serious ill-treatment or abuse (whether physical or not).]

#### Textual Amendments

**F113** Ss. 153A-153E inserted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003](#) (c. 38), **ss. 13(3)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

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## 154 Powers of arrest: ex-parte applications for injunctions.

- (1) In determining whether to exercise its power under [F114section 153C(3) or 153D(4)] to attach a power of arrest to an injunction which it intends to grant on an ex-parte application, the High Court or a county court shall have regard to all the circumstances including—
- (a) whether it is likely that the applicant will be deterred or prevented from seeking the exercise of the power if the power is not exercised immediately, and
  - (b) whether there is reason to believe that the respondent is aware of the proceedings for the injunction but is deliberately evading service and that the applicant or any person of a description mentioned in [F115section 153A(4)] (as the case may be) will be seriously prejudiced if the decision as to whether to exercise the power were delayed until substituted service is effected.
- (2) Where the court exercises its power as mentioned in subsection (1), it shall afford the respondent an opportunity to make representations relating to the exercise of the power as soon as just and convenient at a hearing of which notice has been given to all the parties in accordance with rules of court.

### Textual Amendments

**F114** Words in s. 154(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(4)(a)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

**F115** Words in s. 154(1)(b) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(4)(b)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

## 155 Arrest and remand.

- (1) If a power of arrest is attached to certain provisions of an injunction by virtue of [F116section 153C(3) or 153D(4)], a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of any such provision or otherwise in contempt of court in relation to a breach of any such provision.

A constable shall after making any such arrest forthwith inform the person on whose application the injunction was granted.

- (2) Where a person is arrested under subsection (1)—
- (a) he shall be brought before the relevant judge within the period of 24 hours beginning at the time of his arrest, and
  - (b) if the matter is not then disposed of forthwith, the judge may remand him.

In reckoning for the purposes of this subsection any period of 24 hours no account shall be taken of Christmas Day, Good Friday or any Sunday.

- (3) If the court has granted an injunction in circumstances such that a power of arrest could have been attached under [F117section 153C(3) or 153D(4)] but—
- (a) has not attached a power of arrest under the section in question to any provisions of the injunction, or
  - (b) has attached that power only to certain provisions of the injunction,



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then, if at any time the applicant considers that the respondent has failed to comply with the injunction, he may apply to the relevant judge for the issue of a warrant for the arrest of the respondent.

- (4) The relevant judge shall not issue a warrant on an application under subsection (3) unless—
  - (a) the application is substantiated on oath, and
  - (b) he has reasonable grounds for believing that the respondent has failed to comply with the injunction.
- (5) If a person is brought before a court by virtue of a warrant issued under subsection (4) and the court does not dispose of the matter forthwith, the court may remand him.
- (6) Schedule 15 (which makes provision corresponding to that applying in magistrates' courts in civil cases under sections 128 and 129 of the <sup>M118</sup>Magistrates' Courts Act 1980) applies in relation to the powers of the High Court and a county court to remand a person under this section.
- (7) If a person remanded under this section is granted bail by virtue of subsection (6), he may be required by the relevant judge to comply, before release on bail or later, with such requirements as appear to the judge to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice.

#### Textual Amendments

- F116** Words in s. 155(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(5)(a)**, 93; [S.I. 2004/1502](#), art. 2(a)(ii); [S.I. 2004/2557](#), art. 2(a)(i) (with Sch. para. 1)
- F117** Words in s. 155(3) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(5)(b)**, 93; [S.I. 2004/1502](#), art. 2(a)(ii); [S.I. 2004/2557](#), art. 2(a)(i) (with Sch. para. 1)

#### Commencement Information

- I38** S. 155 wholly in force at 15.10.2001; s. 155 not in force at Royal Assent see s. 232(1)-(3); s. 155(1)(2) (except for (2)(b)) in force at 1.9.1997 by [S.I. 1997/1851](#), **art. 2**; s. 155 in force insofar as not already in force at 15.10.2001 by [S.I. 2001/3164](#), **art. 2**

#### Marginal Citations

- M118** 1980 c. 43.

### 156 Remand for medical examination and report.

- (1) If the relevant judge has reason to consider that a medical report will be required, any power to remand a person under section 155 may be exercised for the purpose of enabling a medical examination and report to be made.
- (2) If such a power is so exercised the adjournment shall not be for more than 4 weeks at a time unless the judge remands the accused in custody.
- (3) If the judge so remands the accused, the adjournment shall not be for more than 3 weeks at a time.
- (4) If there is reason to suspect that a person who has been arrested—
  - (a) under section 155(1), or
  - (b) under a warrant issued under section 155(4),

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is suffering from mental illness or severe mental impairment, the relevant judge shall have the same power to make an order under section 35 of the <sup>M119</sup>Mental Health Act 1983 (remand for report on accused’s mental condition) as the Crown Court has under section 35 of that Act in the case of an accused person within the meaning of that section.

#### Marginal Citations

M119 1983 c. 20.

### 157 Powers of arrest: supplementary provisions.

- (1) If in exercise of its power under [<sup>F118</sup>section 153C(3) or 153D(4)] the High Court or a county court attaches a power of arrest to any provisions of an injunction, it may provide that the power of arrest is to have effect for a shorter period than the other provisions of the injunction.
- (2) Any period specified for the purposes of subsection (1) may be extended by the court (on one or more occasions) on an application to vary or discharge the injunction.
- (3) If a power of arrest has been attached to certain provisions of an injunction by virtue of [<sup>F119</sup>section 153C(3) or 153D(4)], the court may vary or discharge the injunction in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the injunction).
- (4) An injunction may be varied or discharged under subsection (3) on an application by the respondent or the person on whose application the injunction was made.

#### Textual Amendments

- F118** Words in s. 157(1) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(6)(a)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)
- F119** Words in s. 157(3) substituted (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 13(6)(b)**, 93; S.I. 2004/1502, art. 2(a)(ii); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

### 158 Interpretation: Chapter III.

- (1) For the purposes of this Chapter—
 

“charitable housing trust” means a housing trust, within the meaning of the <sup>M120</sup>Housing Associations Act 1985, which is a charity within the meaning of the <sup>M121</sup>Charities Act 1993;

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...

“relevant judge”, in relation to an injunction, means—

  - (a) where the injunction was granted by the High Court, a judge of that court,
  - (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court;

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“tenancy” includes a licence, and “tenant” and “landlord” shall be construed accordingly.

<sup>F121</sup>(2) .....

**Textual Amendments**

**F120** S. 158(1) entries repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. 13(7)(a), 93, [Sch. 3](#); S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with Sch. para. 1); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

**F121** S. 158(2) repealed (30.6.2004 for E., 30.9.2004 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), ss. 13(7)(b), 93, [Sch. 3](#); S.I. 2004/1502, art. 2(a)(c)(ii)(ii) (with Sch. para. 1); S.I. 2004/2557, art. 2(a)(i) (with Sch. para. 1)

**Marginal Citations**

**M120** 1985 c. 69.

**M121** 1993 c. 10.

**PART VI**

ALLOCATION OF HOUSING ACCOMMODATION

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

**C53** Pt. VI excluded (20.1.1997) by [S.I. 1996/2753](#), [reg. 3](#)

Pt. VI modified (1.4.1997) by [S.I. 1996/3205](#), art. 2, [Sch. 1](#)

Pt. VI excluded (E.) (3.4.2000) by [S.I. 2000/702](#), [reg. 3](#)

Pt. VI excluded (W.) (29.1.2003) by [The Allocation of Housing \(Wales\) Regulations 2003 \(S.I. 2003/239\)](#), [reg. 3](#)

Pt. VI excluded (E.) (31.1.2003) by [The Allocation of Housing \(England\) Regulations 2003 \(S.I. 2002/3264\)](#), [reg. 3](#)

*Introductory*

**159 Allocation of housing accommodation.**

- (1) A local housing authority shall comply with the provisions of this Part in allocating housing accommodation.
- (2) For the purposes of this Part a local housing authority allocate housing accommodation when they—
  - (a) select a person to be a secure or introductory tenant of housing accommodation held by them,
  - (b) nominate a person to be a secure or introductory tenant of housing accommodation held by another person, or
  - (c) nominate a person to be an assured tenant of housing accommodation held by a registered social landlord.

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- (3) The reference in subsection (2)(a) to selecting a person to be a secure tenant includes deciding to exercise any power to notify an existing tenant or licensee that his tenancy or licence is to be a secure tenancy.
- (4) The references in subsection (2)(b) and (c) to nominating a person include nominating a person in pursuance of any arrangements (whether legally enforceable or not) to require that housing accommodation, or a specified amount of housing accommodation, is made available to a person or one of a number of persons nominated by the authority.
- [<sup>F122</sup>(5) The provisions of this Part do not apply to an allocation of housing accommodation to a person who is already a secure or introductory tenant unless the allocation involves a transfer of housing accommodation for that person and is made on his application.]
- (7) Subject to the provisions of this Part, a local housing authority may allocate housing accommodation in such manner as they consider appropriate.

#### Textual Amendments

**F122** S. 159(5) substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 159(5)(6) by 2002 c. 7, s. 13 (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

#### 160 Cases where provisions about allocation do not apply.

- (1) The provisions of this Part about the allocation of housing accommodation do not apply in the following cases.
- (2) They do not apply where a secure tenancy—
  - (a) vests under section 89 of the <sup>M122</sup>Housing Act 1985 (succession to periodic secure tenancy on death of tenant),
  - (b) remains a secure tenancy by virtue of section 90 of that Act (devolution of term certain of secure tenancy on death of tenant),
  - (c) is assigned under section 92 of that Act (assignment of secure tenancy by way of exchange),
  - (d) is assigned to a person who would be qualified to succeed the secure tenant if the secure tenant died immediately before the assignment, or
  - (e) vests or is otherwise disposed of in pursuance of an order made under—
    - (i) section 24 of the <sup>M123</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
    - (ii) section 17(1) of the <sup>M124</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iii) paragraph 1 of Schedule 1 to the <sup>M125</sup>Children Act 1989 (orders for financial relief against parents).
- (3) They do not apply where an introductory tenancy—
  - (a) becomes a secure tenancy on ceasing to be an introductory tenancy,
  - (b) vests under section 133(2) (succession to introductory tenancy on death of tenant),
  - (c) is assigned to a person who would be qualified to succeed the introductory tenant if the introductory tenant died immediately before the assignment, or
  - (d) vests or is otherwise disposed of in pursuance of an order made under—

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- (i) section 24 of the <sup>M126</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the <sup>M127</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (4) They do not apply in such other cases as the Secretary of State may prescribe by regulations.
- (5) The regulations may be framed so as to make the exclusion of the provisions of this Part about the allocation of housing accommodation subject to such restrictions or conditions as may be specified.

In particular, those provisions may be excluded—

- (a) in relation to specified descriptions of persons, or
- (b) in relation to housing accommodation of a specified description or a specified proportion of housing accommodation of any specified description.

#### Commencement Information

**I39** S. 160 wholly in force 1.4.1997: s. 160 not in force at Royal Assent, see s. 232(1)-(3); s. 160(4)(5) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 160 in force at 1.4.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 3](#)

#### Marginal Citations

**M122** 1985 c. 68.  
**M123** 1973 c. 18.  
**M124** 1984 c. 42.  
**M125** 1989 c. 41.  
**M126** 1973 c. 18.  
**M127** 1984 c. 42.

*<sup>F123</sup> Eligibility for allocation of housing accommodation*

#### Textual Amendments

**F123** S. 160A and cross-heading inserted (5.12.2002 for the purpose of making regulations and 31.1.2003 otherwise, E.; 27.1.2003 for W.) by [2002 c. 7](#), [s. 14\(2\)](#) (with [s. 20\(4\)](#)); [S.I. 2002/3114](#), [arts. 2, 3](#); [S.I. 2002/1736](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)

#### <sup>F124</sup>160A Allocation only to eligible persons

- (1) A local housing authority shall not allocate housing accommodation—
- (a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (3) or (5);
  - (b) to a person who the authority have decided is to be treated as ineligible for such an allocation by virtue of subsection (7); or
  - (c) to two or more persons jointly if any of them is a person mentioned in paragraph (a) or (b).

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- (2) Except as provided by subsection (1), any person may be allocated housing accommodation by a local housing authority (whether on his application or otherwise).
- (3) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 (c. 49) is (subject to subsection (6)) ineligible for an allocation of housing accommodation by a local housing authority unless he is of a class prescribed by regulations made by the Secretary of State.
- (4) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (c. 33) (exclusion from benefits) shall be included in any class prescribed under subsection (3).
- (5) The Secretary of State may by regulations prescribe other classes of persons from abroad who are (subject to subsection (6)) ineligible for an allocation of housing accommodation, either in relation to local housing authorities generally or any particular local housing authority.
- (6) Nothing in subsection (3) or (5) affects the eligibility of a person who is already—
  - (a) a secure or introductory tenant;
  - (b) an assured tenant of housing accommodation allocated to him by a local housing authority.
- (7) A local housing authority may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by them if they are satisfied that—
  - (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
  - (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the authority by reason of that behaviour.
- (8) The only behaviour which may be regarded by the authority as unacceptable for the purposes of subsection (7)(a) is—
  - (a) behaviour of the person concerned which would (if he were a secure tenant of the authority) entitle the authority to a possession order under section 84 of the Housing Act 1985 (c. 68) on any ground mentioned in Part 1 of Schedule 2 to that Act (other than ground 8); or
  - (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the authority) entitle the authority to such a possession order.
- (9) If a local housing authority decide that an applicant for housing accommodation—
  - (a) is ineligible for an allocation by them by virtue of subsection (3) or (5); or
  - (b) is to be treated as ineligible for such an allocation by virtue of subsection (7),
 they shall notify the applicant of their decision and the grounds for it.
- (10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.
- (11) A person who is being treated by a local housing authority as ineligible by virtue of subsection (7) may (if he considers that he should no longer be treated as ineligible by the authority) make a fresh application to the authority for an allocation of housing accommodation by them.]

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**Textual Amendments**

**F124** S. 160A and cross-heading inserted (5.12.2002 for the purpose of making regulations and 31.1.2003 otherwise, E.; 27.1.2003 for W.) by 2002 c. 7, s. 14(2) (with s. 20(4)); S.I. 2002/3114, arts. 2, 3; S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**

*The housing register*

**F125** **161** .....

**Textual Amendments**

**F125** S. 161 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

**F126** **162** .....

**Textual Amendments**

**F126** S. 162 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

**F127** **163** .....

**Textual Amendments**

**F127** S. 163 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

**F128** **164** .....

**Textual Amendments**

**F128** S. 164 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

**F129** **165** .....

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#### Textual Amendments

**F129** S. 165 repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, ss. 14(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

### *F<sup>130</sup> Applications for housing accommodation*

#### Textual Amendments

**F130** S. 166 and cross-heading substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 166 by 2002 c. 7, **s. 15** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

## 166 <sup>F131</sup> Applications for housing accommodation

- (1) A local housing authority shall secure that—
  - (a) advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation; and
  - (b) any necessary assistance in making such an application is available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.
- (2) A local housing authority shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 167(4A).
- (3) Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the procedural requirements of the authority's allocation scheme) be considered by the authority.
- (4) The fact that a person is an applicant for an allocation of housing accommodation shall not be divulged (without his consent) to any other member of the public.
- (5) In this Part “district” in relation to a local housing authority has the same meaning as in the Housing Act 1985 (c. 68).]

#### Textual Amendments

**F131** Cross-heading and s. 166 substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 166 by 2002 c. 7, **s. 15** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, **art. 3**

### *The allocation scheme*

## 167 Allocation in accordance with allocation scheme.

- (1) Every local housing authority shall have a scheme (their “allocation scheme”) for determining priorities, and as to the procedure to be followed, in allocating housing accommodation.

For this purpose “procedure” includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are to be taken.



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[<sup>F132</sup>(1A) The scheme shall include a statement of the authority’s policy on offering people who are to be allocated housing accommodation—

- (a) a choice of housing accommodation; or
- (b) the opportunity to express preferences about the housing accommodation to be allocated to them.]

[<sup>F133</sup>(2) As regards priorities, the scheme shall be framed so as to secure that reasonable preference is given to—

- (a) people who are homeless (within the meaning of Part 7);
- (b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
- (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- (d) people who need to move on medical or welfare grounds; and
- (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of people with urgent housing needs).

(2A) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (2); and the factors which the scheme may allow to be taken into account include—

- (a) the financial resources available to a person to meet his housing costs;
- (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
- (c) any local connection (within the meaning of section 199) which exists between a person and the authority’s district.

(2B) Nothing in subsection (2) requires the scheme to provide for any preference to be given to people the authority have decided are people to whom subsection (2C) applies.

(2C) This subsection applies to a person if the authority are satisfied that—

- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the authority; and
- (b) in the circumstances at the time his case is considered, he deserves by reason of that behaviour not to be treated as a member of a group of people who are to be given preference by virtue of subsection (2).

(2D) Subsection (8) of section 160A applies for the purposes of subsection (2C)(a) above as it applies for the purposes of subsection (7)(a) of that section.

(2E) Subject to subsection (2), the scheme may contain provision about the allocation of particular housing accommodation—

- (a) to a person who makes a specific application for that accommodation;
- (b) to persons of a particular description (whether or not they are within subsection (2)).]

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- (3) The Secretary of State may by regulations—
- (a) specify further descriptions of people to whom preference is to be given as mentioned in subsection (2), or
  - (b) amend or repeal any part of subsection (2).
- (4) The Secretary of State may by regulations specify factors which a local housing authority shall not take into account in allocating housing accommodation.
- [<sup>F134</sup>(4A) The scheme shall be framed so as to secure that an applicant for an allocation of housing accommodation—
- (a) has the right to request such general information as will enable him to assess—
    - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (2)); and
    - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
  - (b) is notified in writing of any decision that he is a person to whom subsection (2C) applies and the grounds for it;
  - (c) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
  - (d) has the right to request a review of a decision mentioned in paragraph (b) or (c), or in section 160A(9), and to be informed of the decision on the review and the grounds for it.]
- (5) As regards the procedure to be followed, the scheme shall be framed in accordance with such principles as the Secretary of State may prescribe by regulations.
- (6) Subject to the above provisions, and to any regulations made under them, the authority may decide on what principles the scheme is to be framed.
- (7) Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority shall—
- (a) send a copy of the draft scheme, or proposed alteration, to every registered social landlord with which they have nomination arrangements (see section 159(4)), and
  - (b) afford those persons a reasonable opportunity to comment on the proposals.
- (8) A local housing authority shall not allocate housing accommodation except in accordance with their allocation scheme.

#### Textual Amendments

**F132** S. 167(1A) inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 16(1)(2) (with s. 20(4));

S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

**F133** S. 167(2)-(2E) substituted (27.1.2003 for W. and 31.1.2003 for E.) for s. 167(2) by 2002 c. 7, s. 16(1)

(3) (with s. 20(4)); S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

**F134** S. 167(4A) inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 16(1)(4) (with s. 20(4));

S.I. 2002/1736, art. 2(2), Sch. Pt. 2; S.I. 2002/3114, art. 3

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#### Commencement Information

**I40** S. 167 wholly in force 1.4.1997; s. 167 not in force at Royal Assent, see s. 232(1)-(3); s. 167(3)-(5) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 167 in force for certain purposes at 23.10.1996 by [S.I. 1996/2658](#), [art. 2](#) and in force at 1.4.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 3](#)

#### 168 Information about allocation scheme.

- (1) A local housing authority shall publish a summary of their allocation scheme and provide a copy of the summary free of charge to any member of the public who asks for one.
- (2) The authority shall make the scheme available for inspection at their principal office and shall provide a copy of the scheme, on payment of a reasonable fee, to any member of the public who asks for one.
- (3) When the authority make an alteration to their scheme reflecting a major change of policy, they shall within a reasonable period of time [<sup>F135</sup>take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it].

#### Textual Amendments

**F135** Words in s. 168(3) substituted (27.1.2003 for W. and 31.1.2003 for E.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 4](#) (with [s. 20\(4\)](#)); [S.I. 2002/1736](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); [S.I. 2002/3114](#), [art. 3](#)

#### Supplementary

#### 169 Guidance to authorities by the Secretary of State.

- (1) In the exercise of their functions under this Part, local housing authorities shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance generally or to specified descriptions of authorities.

#### 170 Co-operation between registered social landlords and local housing authorities.

Where a local housing authority so request, a registered social landlord shall co-operate to such extent as is reasonable in the circumstances in offering accommodation to [<sup>F136</sup>people with priority under the authority's allocation scheme].

#### Textual Amendments

**F136** Words in s. 170 substituted (27.1.2003 for W. and 31.1.2003 for E.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 5](#) (with [s. 20\(4\)](#)); [S.I. 2002/1736](#), [art. 2\(2\)](#), [Sch. Pt. 2](#); [S.I. 2002/3114](#), [art. 3](#)

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### **171 False statements and withholding information.**

- (1) A person commits an offence if, in connection with the exercise by a local housing authority of their functions under this Part—
  - (a) he knowingly or recklessly makes a statement which is false in a material particular, or
  - (b) he knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **172 Regulations.**

- (1) Regulations under this Part shall be made by statutory instrument.
- (2) No regulations shall be made under section 167(3) (regulations amending provisions about priorities in allocating housing accommodation) unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this Part may contain such incidental, supplementary and transitional provisions as appear to the Secretary of State appropriate, and may make different provision for different cases including different provision for different areas.

### **173 Consequential amendments: Part VI.**

The enactments mentioned in Schedule 16 have effect with the amendments specified there which are consequential on the provisions of this Part.

### **174 Index of defined expressions: Part VI.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section)—

allocation (of housing)	section 159(2)
allocation scheme	section 167
assured tenancy	section 230
[ <sup>F137</sup> district (of local housing authority)	<sup>F137</sup> section 166(5)]
<sup>F138</sup>	<sup>F138</sup>
...	...
introductory tenancy and introductory tenant	sections 230 and 124
local housing authority	section 230
<sup>F138</sup>	<sup>F138</sup>
...	...

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registered social landlord	sections 230 and 2
secure tenancy and secure tenant	section 230

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#### Textual Amendments

- F137** S. 174: entry inserted (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 6** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, art. 3
- F138** S. 174: entries repealed (27.1.2003 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1736, art. 2(2), **Sch. Pt. 2**; S.I. 2002/3114, art. 3

## PART VII

### HOMELESSNESS

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

- C54** Pt. VII (ss. 175-218) modified (20.1.1997) by S.I. 1996/3205, art. 3, **Sch.2**  
Pt. VII (ss. 175-218) applied (with modifications) (*temp.*) (6.12.1999) by S.I. 1999/3126, **arts.2, 7**  
Pt. VII (ss. 175-218): power to apply (with modifications) (transitional provision) (11.11.1999) by 1999 c. 33, s. 169(2), **Sch. 15 para. 13**

#### *Homelessness and threatened homelessness*

### 175 Homelessness and threatened homelessness.

- (1) A person is homeless if he has no accommodation available for his occupation, in the United Kingdom or elsewhere, which he—
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court,
  - (b) has an express or implied licence to occupy, or
  - (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.
- (2) A person is also homeless if he has accommodation but—
  - (a) he cannot secure entry to it, or
  - (b) it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.
- (3) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

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## 176 Meaning of accommodation available for occupation.

Accommodation shall be regarded as available for a person’s occupation only if it is available for occupation by him together with—

- (a) any other person who normally resides with him as a member of his family, or
- (b) any other person who might reasonably be expected to reside with him.

References in this Part to securing that accommodation is available for a person’s occupation shall be construed accordingly.

## 177 Whether it is reasonable to continue to occupy accommodation.

- (1) It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence [<sup>F139</sup> or other violence] against him, or against—
- (a) a person who normally resides with him as a member of his family, or
  - (b) any other person who might reasonably be expected to reside with him.

[<sup>F140</sup>(1A) For this purpose “violence” means—

- (a) violence from another person; or
  - (b) threats of violence from another person which are likely to be carried out;
- and violence is “domestic violence” if it is from a person who is associated with the victim.]

- (2) In determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation, regard may be had to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.
- (3) The Secretary of State may by order specify—
- (a) other circumstances in which it is to be regarded as reasonable or not reasonable for a person to continue to occupy accommodation, and
  - (b) other matters to be taken into account or disregarded in determining whether it would be, or would have been, reasonable for a person to continue to occupy accommodation.

### Textual Amendments

**F139** Words in s. 177(1) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 10(1)(a) (with s. 20(4)); S.I. 2002/1799, art. 2; S.I. 2002/1736, art. 2(1), Sch. Pt. 1

**F140** S. 177(1A) substituted for the words following s. 177(1)(b) (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 10(1)(b) (with s. 20(4)); S.I. 2002/1799, art. 2; S.I. 2002/1736, art. 2(1), Sch. Pt. 1

### Commencement Information

**I41** S. 177 wholly in force 20.1.1997: s. 177 not in force at Royal Assent, see s. 232(1)-(3); s. 177(3) in force at 1.10.1996 by S.I. 1996/2402, art. 3 (with transitional provisions and savings in the Sch.); s. 177 in force at 20.1.1997 to the extent it is not already in force by S.I. 1996/2959, art. 2

## 178 Meaning of associated person.

- (1) For the purposes of this Part, a person is associated with another person if—
- (a) they are or have been married to each other;

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- (b) they are cohabitants or former cohabitants;
  - (c) they live or have lived in the same household;
  - (d) they are relatives;
  - (e) they have agreed to marry one another (whether or not that agreement has been terminated);
  - (f) in relation to a child, each of them is a parent of the child or has, or has had, parental responsibility for the child.
- (2) If a child has been adopted or has been freed for adoption by virtue of any of the enactments mentioned in section 16(1) of the <sup>M128</sup>Adoption Act 1976, two persons are also associated with each other for the purposes of this Part if—
- (a) one is a natural parent of the child or a parent of such a natural parent, and
  - (b) the other is the child or a person—
    - (i) who has become a parent of the child by virtue of an adoption order or who has applied for an adoption order, or
    - (ii) with whom the child has at any time been placed for adoption.
- (3) In this section—
- “adoption order” has the meaning given by section 72(1) of the Adoption Act 1976;
- “child” means a person under the age of 18 years;
- “cohabitants” means a man and a woman who, although not married to each other, are living together as husband and wife, and “former cohabitants” shall be construed accordingly;
- “parental responsibility” has the same meaning as in the <sup>M129</sup>Children Act 1989; and
- “relative”, in relation to a person, means—
- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse or former spouse, or
  - (b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person’s spouse or former spouse,
- and includes, in relation to a person who is living or has lived with another person as husband and wife, a person who would fall within paragraph (a) or (b) if the parties were married to each other.

#### Marginal Citations

M128 1976 c. 36.

M129 1989 c. 41.

### *General functions in relation to homelessness or threatened homelessness*

#### **179 Duty of local housing authority to provide advisory services.**

- (1) Every local housing authority shall secure that advice and information about homelessness, and the prevention of homelessness, is available free of charge to any person in their district.

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- (2) The authority may give to any person by whom such advice and information is provided on behalf of the authority assistance by way of grant or loan.
- (3) A local housing authority may also assist any such person—
  - (a) by permitting him to use premises belonging to the authority,
  - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) by making available the services of staff employed by the authority.

### **180 Assistance for voluntary organisations.**

- (1) The Secretary of State or a local housing authority may give assistance by way of grant or loan to voluntary organisations concerned with homelessness or matters relating to homelessness.
- (2) A local housing authority may also assist any such organisation—
  - (a) by permitting them to use premises belonging to the authority,
  - (b) by making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) by making available the services of staff employed by the authority.
- (3) A “voluntary organisation” means a body (other than a public or local authority) whose activities are not carried on for profit.

### **181 Terms and conditions of assistance.**

- (1) This section has effect as to the terms and conditions on which assistance is given under section 179 or 180.
- (2) Assistance shall be on such terms, and subject to such conditions, as the person giving the assistance may determine.
- (3) No assistance shall be given unless the person to whom it is given undertakes—
  - (a) to use the money, furniture or other goods or premises for a specified purpose, and
  - (b) to provide such information as may reasonably be required as to the manner in which the assistance is being used.

The person giving the assistance may require such information by notice in writing, which shall be complied with within 21 days beginning with the date on which the notice is served.

- (4) The conditions subject to which assistance is given shall in all cases include conditions requiring the person to whom the assistance is given—
  - (a) to keep proper books of account and have them audited in such manner as may be specified,
  - (b) to keep records indicating how he has used the money, furniture or other goods or premises, and
  - (c) to submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the person to whom it was given has failed to carry out his undertaking as to the purpose for which the assistance was



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to be used, he shall take all reasonable steps to recover from that person an amount equal to the amount of the assistance.

- (6) He must first serve on the person to whom the assistance was given a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

## **182 Guidance by the Secretary of State.**

- (1) In the exercise of their functions relating to homelessness and the prevention of homelessness, a local housing authority or social services authority shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

*Application for assistance in case of homelessness or threatened homelessness*

## **183 Application for assistance.**

- (1) The following provisions of this Part apply where a person applies to a local housing authority for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he is or may be homeless or threatened with homelessness.
- (2) In this Part—  
“applicant” means a person making such an application,  
“assistance under this Part” means the benefit of any function under the following provisions of this Part relating to accommodation or assistance in obtaining accommodation, and  
“eligible for assistance” means not excluded from such assistance by section 185 (persons from abroad not eligible for housing assistance) or section 186 (asylum seekers and their dependants).
- (3) Nothing in this section or the following provisions of this Part affects a person’s entitlement to advice and information under section 179 (duty to provide advisory services).

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

**C55** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

### **Commencement Information**

**I42** S. 183 wholly in force 20.1.1997: s. 183 not in force at Royal Assent, see s. 232(1)-(3); s. 183(2) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 183 in force at 20.1.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 2](#)

## **184 Inquiry into cases of homelessness or threatened homelessness.**

- (1) If the local housing authority have reason to believe that an applicant may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves—

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- (a) whether he is eligible for assistance, and
  - (b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part.
- (2) They may also make inquiries whether he has a local connection with the district of another local housing authority in England, Wales or Scotland.
- (3) On completing their inquiries the authority shall notify the applicant of their decision and, so far as any issue is decided against his interests, inform him of the reasons for their decision.
- (4) If the authority have notified or intend to notify another local housing authority under section 198 (referral of cases), they shall at the same time notify the applicant of that decision and inform him of the reasons for it.
- (5) A notice under subsection (3) or (4) shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made (see section 202).
- (6) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

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

**C56** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

*Eligibility for assistance*

**185 Persons from abroad not eligible for housing assistance.**

- (1) A person is not eligible for assistance under this Part if he is a person from abroad who is ineligible for housing assistance.
- (2) A person who is subject to immigration control within the meaning of the <sup>M130</sup>Asylum and Immigration Act 1996 is not eligible for housing assistance unless he is of a class prescribed by regulations made by the Secretary of State.
- [<sup>F141</sup>(2A) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).]
- (3) The Secretary of State may make provision by regulations as to other descriptions of persons who are to be treated for the purposes of this Part as persons from abroad who are ineligible for housing assistance.
- (4) A person from abroad who is not eligible for housing assistance shall be disregarded in determining for the purposes of this Part whether another person—
  - (a) is homeless or threatened with homelessness, or
  - (b) has a priority need for accommodation.

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#### Textual Amendments

**F141** S. 185(2A) substituted (26.2.2002) by 2002 c. 7, s. 18(2), **Sch. 1 para. 7(1)** (with s. 20(4))

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

**C57** Ss. 183-218 modified (3.4.1997) by **S.I. 1997/797, art. 2(1)**

#### Commencement Information

**I43** S. 185 wholly in force at 20.1.1997: s. 185 not in force at Royal Assent, see s. 232(1)-(3); s. 185(2)(3) in force for certain purposes at 1.10.1996 by **S.I. 1996/2402, art. 4**; s. 185 in force at 20.1.1997 to the extent it is not already in force by **S.I. 1996/2959, art. 2**

#### Marginal Citations

**M130** 1996 c. 49.

### 186 Asylum-seekers and their dependants.

- (1) An asylum-seeker, or a dependant of an asylum-seeker who is not by virtue of section 185 a person from abroad who is ineligible for housing assistance, is not eligible for assistance under this Part if he has any accommodation in the United Kingdom, however temporary, available for his occupation.
- (2) For the purposes of this section a person who makes a claim for asylum—
  - (a) becomes an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been made, and
  - (b) ceases to be an asylum-seeker at the time when his claim is recorded by the Secretary of State as having been finally determined or abandoned.
- (3) For the purposes of this section a person—
  - (a) becomes a dependant of an asylum-seeker at the time when he is recorded by the Secretary of State as being a dependant of the asylum-seeker, and
  - (b) ceases to be a dependant of an asylum-seeker at the time when the person whose dependant he is ceases to be an asylum-seeker or, if it is earlier, at the time when he is recorded by the Secretary of State as ceasing to be a dependant of the asylum-seeker.
- (4) In relation to an asylum-seeker, “dependant” means a person—
  - (a) who is his spouse or a child of his under the age of eighteen, and
  - (b) who has neither a right of abode in the United Kingdom nor indefinite leave under the <sup>M131</sup>Immigration Act 1971 to enter or remain in the United Kingdom.
- (5) In this section a “claim for asylum” means a claim made by a person that it would be contrary to the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the United Kingdom.

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

**C58** Ss. 183-218 modified (3.4.1997) by **S.I. 1997/797, art. 2(1)**

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#### Marginal Citations

M131 1971 c. 77.

### 187 Provision of information by Secretary of State.

- (1) The Secretary of State shall, at the request of a local housing authority, provide the authority with such information as they may require—
  - (a) as to whether a person is [<sup>F142</sup>a person to whom section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) applies], or a dependant of an asylum-seeker, and
  - (b) to enable them to determine whether such a person is eligible for assistance under this Part under section 185 (persons from abroad not eligible for housing assistance).
- (2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the authority.
- (3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to a local housing authority under this section, he shall inform the authority in writing of that fact, the reason for it and the date on which the previous information became inaccurate.

#### Textual Amendments

**F142** Words in s. 187(1)(a) substituted (3.4.2000) by 1999 c. 33, s. 117(6); S.I. 2000/464, art. 2, Sch.

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

**C59** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, art. 2(1)

#### *Interim duty to accommodate*

### 188 Interim duty to accommodate in case of apparent priority need.

- (1) If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him under the following provisions of this Part.
- (2) The duty under this section arises irrespective of any possibility of the referral of the applicant's case to another local housing authority (see sections 198 to 200).
- (3) The duty ceases when the authority's decision is notified to the applicant, even if the applicant requests a review of the decision (see section 202).

The authority may [<sup>F143</sup>secure] that accommodation is available for the applicant's occupation pending a decision on a review.

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#### Textual Amendments

**F143** Word in s. 188(3) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 8** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C60** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

**C61** S. 188(3) restricted (8.1.2003) by 2002 c. 41, s. 55 (with s. 159); S.I. 2002/2811, **art. 2**, **Sch.**

S. 188(3) restricted (*prosp.*) by 2002 c. 41, ss. 54, 162(2), **Sch. 3 para. 1(1)(j)** (with s. 159)

### 189 Priority need for accommodation.

- (1) The following have a priority need for accommodation—
- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
  - a person with whom dependent children reside or might reasonably be expected to reside;
  - a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
  - a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- (2) The Secretary of State may by order—
- specify further descriptions of persons as having a priority need for accommodation, and
  - amend or repeal any part of subsection (1).
- (3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

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

**C62** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art.2(1)**

#### Commencement Information

**I44** S. 189 wholly in force 20.1.1997: s. 189 not in force at Royal Assent, see s. 232(1)-(3); s. 189(2)-(4) in force at 1.10.1996 by S.I. 1996/2402, **art. 3** (with transitional provisions and savings in the **Sch.**); s. 189 in force at 20.1.1997 to the extent it is not already in force by S.I. 1996/2959, **art. 2**

#### *Duties to persons found to be homeless or threatened with homelessness*

### 190 Duties to persons becoming homeless intentionally.

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless and is eligible for assistance but are also satisfied that he became homeless intentionally.

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- (2) If the authority are satisfied that the applicant has a priority need, they shall—
  - (a) secure that accommodation is available for his occupation for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation, and
  - (b) provide him with [<sup>F144</sup>(or secure that he is provided with) advice and assistance] in any attempts he may make to secure that accommodation becomes available for his occupation.
- (3) If they are not satisfied that he has a priority need, they shall provide him with [<sup>F144</sup>(or secure that he is provided with) advice and assistance] in any attempts he may make to secure that accommodation becomes available for his occupation.
- [<sup>F145</sup>(4) The applicant’s housing needs shall be assessed before advice and assistance is provided under subsection (2)(b) or (3).
- <sup>F145</sup>(5) The advice and assistance provided under subsection (2)(b) or (3) must include information about the likely availability in the authority’s district of types of accommodation appropriate to the applicant’s housing needs (including, in particular, the location and sources of such types of accommodation).]

**Textual Amendments**

**F144** Words in s. 190(2)(b)(3) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 9** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F145** S. 190(4)(5) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 10** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C63** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

**191 Becoming homeless intentionally.**

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (3) A person shall be treated as becoming homeless intentionally if—
  - (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
  - (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,
 and there is no other good reason why he is homeless.

[<sup>F146</sup>(4) . . . . .]

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#### Textual Amendments

**F146** S. 191(4) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C64** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art.2(1)**

### 192 Duty to persons not in priority need who are not homeless intentionally.

- (1) This section applies where the local housing authority—
- (a) are satisfied that an applicant is homeless and eligible for assistance, and
  - (b) are not satisfied that he became homeless intentionally,
- but are not satisfied that he has a priority need.
- (2) The authority shall provide the applicant with [<sup>F147</sup>(or secure that he is provided with advice and assistance)] in any attempts he may make to secure that accommodation becomes available for his occupation.
- [<sup>F148</sup>(3) The authority may secure that accommodation is available for occupation by the applicant.]
- [<sup>F149</sup>(4) The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (2).
- <sup>F149</sup>(5) The advice and assistance provided under subsection (2) must include information about the likely availability in the authority's district of types of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).]

#### Textual Amendments

**F147** Words in s. 192(2) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 11** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F148** S. 192(3) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 5(1) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F149** S. 192(4)(5) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 12** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C65** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

### 193 Duty to persons with priority need who are not homeless intentionally.

- (1) This section applies where the local housing authority are satisfied that an applicant is homeless, eligible for assistance and has a priority need, and are not satisfied that he became homeless intentionally.

**F150** ...

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- (2) Unless the authority refer the application to another local housing authority (see section 198), they shall secure that accommodation is available for occupation by the applicant.
- [<sup>F151</sup>(3) The authority are subject to the duty under this section until it ceases by virtue of any of the following provisions of this section.]
- [<sup>F152</sup>(3A) The authority shall, on becoming subject to the duty under this section, give the applicant a copy of the statement included in their allocation scheme by virtue of section 167(1A) (policy on offering choice to people allocated housing accommodation under Part 6).]
- (5) The local housing authority shall cease to be subject to the duty under this section if the applicant, having been informed by the authority of the possible consequence of refusal [<sup>F153</sup>and of his right to request a review of the suitability of the accommodation], refuses an offer of accommodation which the authority are satisfied is suitable for him and the authority notify him that they regard themselves as having discharged their duty under this section.
- (6) The local housing authority shall cease to be subject to the duty under this section if the applicant—
- (a) ceases to be eligible for assistance,
  - (b) becomes homeless intentionally from the accommodation made available for his occupation,
  - (c) accepts an offer of accommodation under Part VI (allocation of housing), or
  - [<sup>F154</sup>(cc) accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord,]
  - (d) otherwise voluntarily ceases to occupy as his only or principal home the accommodation made available for his occupation.
- [<sup>F155</sup>(7) The local housing authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the possible consequence of refusal and of his right to request a review of the suitability of the accommodation, refuses a final offer of accommodation under Part 6.
- (7A) An offer of accommodation under Part 6 is a final offer for the purposes of subsection (7) if it is made in writing and states that it is a final offer for the purposes of subsection (7).]
- [<sup>F156</sup>(7B) The authority shall also cease to be subject to the duty under this section if the applicant accepts a qualifying offer of an assured shorthold tenancy which is made by a private landlord in relation to any accommodation which is, or may become, available for the applicant's occupation.
- (7C) The applicant is free to reject a qualifying offer without affecting the duty owed to him under this section by the authority.
- (7D) For the purposes of subsection (7B) an offer of an assured shorthold tenancy is a qualifying offer if—
- (a) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under this section to an end;
  - (b) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988 (c. 50)); and



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- (c) it is accompanied by a statement in writing which states the term of the tenancy being offered and explains in ordinary language that—
- (i) there is no obligation to accept the offer, but
  - (ii) if the offer is accepted the local housing authority will cease to be subject to the duty under this section in relation to the applicant.
- (7E) An acceptance of a qualifying offer is only effective for the purposes of subsection (7B) if the applicant signs a statement acknowledging that he has understood the statement mentioned in subsection (7D).
- (7F) The local housing authority shall not—
- (a) make a final offer of accommodation under Part 6 for the purposes of subsection (7); or
  - (b) approve an offer of an assured shorthold tenancy for the purposes of subsection (7B),
- unless they are satisfied that the accommodation is suitable for the applicant and that it is reasonable for him to accept the offer.]
- (8) For the purposes of [F157 subsection (7F)] an applicant may reasonably be expected to accept an offer F158 . . . even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.
- (9) A person who ceases to be owed the duty under this section may make a fresh application to the authority for accommodation or assistance in obtaining accommodation.

#### Textual Amendments

- F150** Words in s. 193(1) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F151** S. 193(3) substituted for s. 193(3)(4) (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 6(1) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F152** S. 193(3A) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 13** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F153** Words in s. 193(5) inserted (26.2.2002) by 2002 c. 7, s. 8(1) (with s. 20(4))
- F154** S. 193(6)(cc) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 7(1)(2)(6) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F155** S. 193(7)(7A) substituted for s. 193(7) (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 7(1)(3)(6) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F156** S. 193(7B)-(7F) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 7(1)(4)(6) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F157** Words in s. 193(8) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 7(1)(5)(6) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F158** Words in s. 193(8) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, ss. 7(1)(5)(6), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

- C66** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

*Status: Point in time view as at 28/02/2005. This version of this Act contains provisions that are prospective.*

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### Textual Amendments

**F159** S. 194 repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, ss. 6(3), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

## 195 Duties in case of threatened homelessness.

- (1) This section applies where the local housing authority are satisfied that an applicant is threatened with homelessness and is eligible for assistance.
- (2) If the authority—
  - (a) are satisfied that he has a priority need, and
  - (b) are not satisfied that he became threatened with homelessness intentionally,
 they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.
 

**F160**  
...
- (3) Subsection (2) does not affect any right of the authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of any accommodation.
- <sup>[F161]</sup>(3A) The authority shall, on becoming subject to the duty under this section, give the applicant a copy of the statement included in their allocation scheme by virtue of section 167(1A) (policy on offering choice to people allocated housing accommodation under Part 6).]
- (4) Where in pursuance of the duty under subsection (2) the authority secure that accommodation other than that occupied by the applicant when he made his application is available for occupation by him, the provisions of section 193(3) to (9) (period for which duty owed) and section 194 (power exercisable after minimum period of duty) apply, with any necessary modifications, in relation to the duty under this section as they apply in relation to the duty under section 193.
- (5) If the authority—
  - (a) are not satisfied that the applicant has a priority need, or
  - (b) are satisfied that he has a priority need but are also satisfied that he became threatened with homelessness intentionally,
 they shall <sup>[F162]</sup>provide him with (or secure that he is provided with) advice and assistance] in any attempts he may make to secure that accommodation does not cease to be available for his occupation.
- <sup>[F163]</sup>(6) The applicant's housing needs shall be assessed before advice and assistance is provided under subsection (5).
- <sup>F163</sup>(7) The advice and assistance provided under subsection (5) must include information about the likely availability in the authority's district of types of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such types of accommodation).]
- <sup>[F164]</sup>(8) If the authority decide that they owe the applicant the duty under subsection (5) by virtue of paragraph (b) of that subsection, they may, pending a decision on a review of that decision—

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- (a) secure that accommodation does not cease to be available for his occupation; and
- (b) if he becomes homeless, secure that accommodation is so available.]

[<sup>F165</sup>(9) If the authority—

- (a) are not satisfied that the applicant has a priority need; and
  - (b) are not satisfied that he became threatened with homelessness intentionally,
- the authority may take reasonable steps to secure that accommodation does not cease to be available for the applicant’s occupation.]

#### Textual Amendments

- F160** Words in s. 195(2) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F161** S. 195(3A) inserted (30.9.2002 for W. and 31.1.2003 for E.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 14(a)** (with s. 20(4)); S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**; S.I. 2002/3144, **art. 3**
- F162** Words in s. 195(5) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 14(b)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F163** S. 195(6)(7) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 14(c)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F164** S. 195(8) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 14(d)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F165** S. 195(9) inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 5(2) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

- C67** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

### 196 Becoming threatened with homelessness intentionally.

- (1) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) For the purposes of subsection (1) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (3) A person shall be treated as becoming threatened with homelessness intentionally if—
  - (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would have been reasonable for him to continue to occupy, and
  - (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,and there is no other good reason why he is threatened with homelessness.

<sup>F166</sup>(4) .....

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#### Textual Amendments

**F166** S. 196(4) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C68** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art.2(1)**

### *Duty where other suitable accommodation available*

<sup>F167</sup>**197** .....

#### Textual Amendments

**F167** S. 197 repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, ss. 9(1), 18(2), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

### *Referral to another local housing authority*

#### **198 Referral of case to another local housing authority.**

- (1) If the local housing authority would be subject to the duty under section 193 (accommodation for those with priority need who are not homeless intentionally) but consider that the conditions are met for referral of the case to another local housing authority, they may notify that other authority of their opinion.

<sup>F168</sup> ...

- (2) The conditions for referral of the case to another authority are met if—
- (a) neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
  - (b) the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
  - (c) neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.

[<sup>F169</sup>(2A) But the conditions for referral mentioned in subsection (2) are not met if—

- (a) the applicant or any person who might reasonably be expected to reside with him has suffered violence (other than domestic violence) in the district of the other authority; and
  - (b) it is probable that the return to that district of the victim will lead to further violence of a similar kind against him.
- (3) For the purposes of subsections (2) and (2A) “violence” means—
- (a) violence from another person; or
  - (b) threats of violence from another person which are likely to be carried out;

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and violence is “domestic violence” if it is from a person who is associated with the victim.]

- (4) The conditions for referral of the case to another authority are also met if—
- (a) the applicant was on a previous application made to that other authority placed (in pursuance of their functions under this Part) in accommodation in the district of the authority to whom his application is now made, and
  - (b) the previous application was within such period as may be prescribed of the present application.
- (5) The question whether the conditions for referral of a case are satisfied shall be decided by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order.
- (6) An order may direct that the arrangements shall be—
- (a) those agreed by any relevant authorities or associations of relevant authorities, or
  - (b) in default of such agreement, such arrangements as appear to the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.
- (7) No such order shall be made unless a draft of the order has been approved by a resolution of each House of Parliament.

#### Textual Amendments

**F168** Words in s. 198(1) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F169** S. 198(2A)(3) substituted for s. 198(3) (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 10(2) (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C69** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

**C70** S. 198 modified (*temp.*) (6.12.1999) by S.I. 1999/3126, **arts. 3, 7**

#### Commencement Information

**I45** S. 198 wholly in force 20.1.1997: s. 198 not in force at Royal Assent, see s. 232(1)-(3); s. 198(4)-(7) in force for certain purposes at 1.10.1996 by S.I. 1996/2402, **art. 4**; s. 198 in force at 20.1.1997 to the extent it is not already in force by S.I. 1996/2959, **art. 2**

### 199 Local connection.

- (1) A person has a local connection with the district of a local housing authority if he has a connection with it—
- (a) because he is, or in the past was, normally resident there, and that residence is or was of his own choice,
  - (b) because he is employed there,
  - (c) because of family associations, or
  - (d) because of special circumstances.

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- (2) A person is not employed in a district if he is serving in the regular armed forces of the Crown.
- (3) Residence in a district is not of a person's own choice if—
- (a) he becomes resident there because he, or a person who might reasonably be expected to reside with him, is serving in the regular armed forces of the Crown, or
  - (b) he, or a person who might reasonably be expected to reside with him, becomes resident there because he is detained under the authority of an Act of Parliament.
- (4) In subsections (2) and (3) “regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the <sup>M132</sup>Army Act 1955 [<sup>F170</sup>or the regular air force as defined by section 223 of the Air Force Act 1955].
- (5) The Secretary of State may by order specify other circumstances in which—
- (a) a person is not to be treated as employed in a district, or
  - (b) residence in a district is not to be treated as of a person's own choice.
- [<sup>F171</sup>(6) A person has a local connection with the district of a local housing authority if he was (at any time) provided with accommodation in that district under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers).
- (7) But subsection (6) does not apply—
- (a) to the provision of accommodation for a person in a district of a local housing authority if he was subsequently provided with accommodation in the district of another local housing authority under section 95 of that Act, or
  - (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (use of accommodation centres for section 95 support).]

#### Textual Amendments

**F170** Words in s. 199(4) substituted (11.5.2001) by 2001 c. 19, ss. 34, 39(3), **Sch. 6 Pt. V para. 30**

**F171** S. 199(6)(7) added (4.1.2005) by **Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 11(1), 48(3); S.I. 2004/2999, art. 2, Sch.**

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

**C71** S. 199 excluded (3.4.1997) by **S.I. 1997/797, art. 2(1)(3)(b)**

S. 199 modified (3.4.1997) by **S.I. 1997/797, art. 2(1)**

#### Commencement Information

**I46** S. 199 in force 20.1.1997: s. 199 not in force at Royal Assent, see s. 232(1)-(3); s. 199(5) in force at 1.10.1996 by **S.I. 1996/2402, art. 3** (with transitional provisions and savings in the **Sch.**); s. 199 in force at 20.1.1997 to the extent it is not already in force by **S.I. 1996/2959, art. 2**

#### Marginal Citations

**M132** 1955 c. 18.

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## 200 Duties to applicant whose case is considered for referral or referred.

(1) Where a local housing authority notify an applicant that they intend to notify or have notified another local housing authority of their opinion that the conditions are met for the referral of his case to that other authority—

(a) they cease to be subject to any duty under section 188 (interim duty to accommodate in case of apparent priority need), and

(b) they are not subject to any duty under section 193 (the main housing duty), but they shall secure that accommodation is available for occupation by the applicant until he is notified of the decision whether the conditions for referral of his case are met.

(2) When it has been decided whether the conditions for referral are met, the notifying authority shall notify the applicant of the decision and inform him of the reasons for it.

The notice shall also inform the applicant of his right to request a review of the decision and of the time within which such a request must be made.

[<sup>F172</sup>(3) If it is decided that the conditions for referral are not met, the notifying authority are subject to the duty under section 193 (the main housing duty).

<sup>F172</sup>(4) If it is decided that those conditions are met, the notified authority are subject to the duty under section 193 (the main housing duty).]

(5) The duty under subsection (1), <sup>F173</sup>... ceases as provided in that subsection even if the applicant requests a review of the authority's decision (see section 202).

The authority may [<sup>F174</sup>secure] that accommodation is available for the applicant's occupation pending the decision on a review.

(6) Notice required to be given to an applicant under this section shall be given in writing and, if not received by him, shall be treated as having been given to him if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

### Textual Amendments

**F172** S. 200(3)(4) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 15(a)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F173** Words in s. 200(5) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F174** Word in s. 200(5) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 15(b)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

### Modifications etc. (not altering text)

**C72** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

## 201 Application of referral provisions to cases arising in Scotland.

Sections 198 and 200 (referral of application to another local housing authority and duties to applicant whose case is considered for referral or referred) apply—

(a) to applications referred by a local authority in Scotland in pursuance of sections 33 and 34 of the <sup>M133</sup>Housing (Scotland) Act 1987, and

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(b) to persons whose applications are so transferred, as they apply to cases arising under this Part (the reference in section 198 to this Part being construed as a reference to Part II of that Act).

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

C73 Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, art.2(1)

**Marginal Citations**

M133 1987 c. 26.

*Right to request review of decision*

**202 Right to request review of decision.**

- (1) An applicant has the right to request a review of—
- (a) any decision of a local housing authority as to his eligibility for assistance,
  - (b) any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 and 195 [<sup>F175</sup>and 196] (duties to persons found to be homeless or threatened with homelessness),
  - (c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),
  - (d) any decision under section 198(5) whether the conditions are met for the referral of his case,
  - (e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred), or
  - (f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e) [<sup>F176</sup>or as to the suitability of accommodation offered to him as mentioned in section 193(7)].

[<sup>F177</sup>(1A) An applicant who is offered accommodation as mentioned in section 193(5) or (7) may under subsection (1)(f) request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.]

- (2) There is no right to request a review of the decision reached on an earlier review.
- (3) A request for review must be made before the end of the period of 21 days beginning with the day on which he is notified of the authority's decision or such longer period as the authority may in writing allow.
- (4) On a request being duly made to them, the authority or authorities concerned shall review their decision.

**Textual Amendments**

**F175** Words in s. 202(1)(b) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 16** (with s. 20(4)); S.I. 2002/1799, art. 2; S.I. 2002/1736, art. 2(1), **Sch. Pt. 1**

**F176** Words in s. 202(1)(f) inserted (26.2.2002) by 2002 c. 7, s. 8(2)(a) (with s. 20(4))

**F177** S. 202(1A) inserted (26.2.2002) by 2002 c. 7, s. 8(2)(b) (with s. 20(4))



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

**C74** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

**203 Procedure on a review.**

- (1) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under section 202.

Nothing in the following provisions affects the generality of this power.

- (2) Provision may be made by regulations—
- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (3) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision on the review.
- (4) If the decision is—
- (a) to confirm the original decision on any issue against the interests of the applicant, or
  - (b) to confirm a previous decision—
    - (i) to notify another authority under section 198 (referral of cases), or
    - (ii) that the conditions are met for the referral of his case,they shall also notify him of the reasons for the decision.
- (5) In any case they shall inform the applicant of his right to appeal to a county court on a point of law, and of the period within which such an appeal must be made (see section 204).
- (6) Notice of the decision shall not be treated as given unless and until subsection (5), and where applicable subsection (4), is complied with.
- (7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.
- (8) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

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

**C75** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

**Commencement Information**

**I47** S. 203 wholly in force 20.1.1997: s. 203 not in force at Royal Assent, see s. 232(1)-(3); s. 203(1)(2)(7) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 203 in force at 20.1.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 2](#)

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## 204 Right of appeal to county court on point of law.

- (1) If an applicant who has requested a review under section 202—
  - (a) is dissatisfied with the decision on the review, or
  - (b) is not notified of the decision on the review within the time prescribed under section 203,
 he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.
- (2) An appeal must be brought within 21 days of his being notified of the decision or, as the case may be, of the date on which he should have been notified of a decision on review.
- [<sup>F178</sup>(2A) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied—
  - (a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or
  - (b) where permission is sought after that time, that there was a good reason for the applicant’s failure to bring the appeal in time and for any delay in applying for permission.]
- (3) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.
- (4) Where the authority were under a duty under section 188, 190 or 200 to secure that accommodation is available for the applicant’s occupation [<sup>F179</sup>, or had the power under section 195(8) to do so, they may] secure that accommodation is so available—
  - (a) during the period for appealing under this section against the authority’s decision, and
  - (b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

### Textual Amendments

- F178** S. 204(2A) inserted (30.9.2002) by 2002 c. 7, s. 18(1), **Sch. 1 para. 17(a)** (with s. 20(4)); S.I. 2002/1736, art. 2(1), **Sch. Pt. 1**; S.I. 2002/2324, art. 3 (subject to transitional provisions in art. 4)
- F179** Words in s. 204(4) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 17(b)** (with s. 20(4)); S.I. 2002/1799, art. 2; S.I. 2002/1736, art. 2(1), **Sch. Pt. 1**

### Modifications etc. (not altering text)

- C76** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, art. 2(1)
- C77** S. 204(4) restricted (8.1.2003) by 2002 c. 41, s. 55(4)(b) (with s. 159); S.I. 2002/2811, art. 2, **Sch.** S. 204(4) restricted (*prosp.*) by 2002 c. 41, ss. 54, 162(2), **Sch. 3 para. 1(1)(j)** (with s. 159)

## [<sup>F180</sup>204A]Section 204(4): appeals

- (1) This section applies where an applicant has the right to appeal to the county court against a local housing authority’s decision on a review.
- (2) If the applicant is dissatisfied with a decision by the authority—
  - (a) not to exercise their power under section 204(4) (“the section 204(4) power”) in his case;

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- (b) to exercise that power for a limited period ending before the final determination by the county court of his appeal under section 204(1) (“the main appeal”); or
  - (c) to cease exercising that power before that time,  
he may appeal to the county court against the decision.
- (3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.
- (4) On an appeal under this section the court—
- (a) may order the authority to secure that accommodation is available for the applicant’s occupation until the determination of the appeal (or such earlier time as the court may specify); and
  - (b) shall confirm or quash the decision appealed against,  
and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.
- (5) If the court quashes the decision it may order the authority to exercise the section 204(4) power in the applicant’s case for such period as may be specified in the order.
- (6) An order under subsection (5)—
- (a) may only be made if the court is satisfied that failure to exercise the section 204(4) power in accordance with the order would substantially prejudice the applicant’s ability to pursue the main appeal;
  - (b) may not specify any period ending after the final determination by the county court of the main appeal.]

#### **Textual Amendments**

**F180** S. 204A inserted (30.9.2002) by 2002 c. 7, s. 11 (with s. 20(4)); S.I. 2002/1736, art. 2(1), Sch. Pt. 1; S.I. 2002/2324, art. 3 (subject to transitional provisions in art. 4)

#### *Supplementary provisions*

### **205 Discharge of functions: introductory.**

- (1) The following sections have effect in relation to the discharge by a local housing authority of their functions under this Part to secure that accommodation is available for the occupation of a person—
- section 206 (general provisions),
  - <sup>F181</sup>  
...
  - section 208 (out-of-area placements),
  - section 209 (arrangements with private landlord).
- (2) In [<sup>F182</sup>sections 206 and 208] those functions are referred to as the authority’s “housing functions under this Part”.

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#### Textual Amendments

**F181** Words in s. 205(1) repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

**F182** Words in s. 205(2) substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 18** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C78** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

### 206 Discharge of functions by local housing authorities.

- (1) A local housing authority may discharge their housing functions under this Part only in the following ways—
- (a) by securing that suitable accommodation provided by them is available,
  - (b) by securing that he obtains suitable accommodation from some other person, or
  - (c) by giving him such advice and assistance as will secure that suitable accommodation is available from some other person.
- (2) A local housing authority may require a person in relation to whom they are discharging such functions—
- (a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or
  - (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

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

**C79** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, **art. 2(1)**

**C80** S. 206 modified (*temp.*) (6.12.1999) by S.I. 1999/3126, **arts.4, 7**

### <sup>F183</sup>207 Discharge of functions: provision of accommodation by the authority.

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#### Textual Amendments

**F183** S. 207 repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

### 208 Discharge of functions: out-of-area placements.

- (1) So far as reasonably practicable a local housing authority shall in discharging their housing functions under this Part secure that accommodation is available for the occupation of the applicant in their district.

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- (2) If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.
- (3) The notice shall state—
  - (a) the name of the applicant,
  - (b) the number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him,
  - (c) the address of the accommodation,
  - (d) the date on which the accommodation was made available to him, and
  - (e) which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.
- (4) The notice must be in writing, and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

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

**C81** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art.2\(1\)](#)

**C82** S. 208 modified (*temp.*) (6.12.1999) by [S.I. 1999/3126](#), [arts.5, 7](#)

[<sup>F184</sup>**209 Discharge of interim duties: arrangements with private landlord**

- (1) This section applies where in pursuance of any of their housing functions under section 188, 190, 200 or 204(4) (interim duties) a local housing authority make arrangements with a private landlord to provide accommodation.
- (2) A tenancy granted to the applicant in pursuance of the arrangements cannot be an assured tenancy before the end of the period of twelve months beginning with—
  - (a) the date on which the applicant was notified of the authority's decision under section 184(3) or 198(5); or
  - (b) if there is a review of that decision under section 202 or an appeal to the court under section 204, the date on which he is notified of the decision on review or the appeal is finally determined,

unless, before or during that period, the tenant is notified by the landlord (or in the case of joint landlords, at least one of them) that the tenancy is to be regarded as an assured shorthold tenancy or an assured tenancy other than an assured shorthold tenancy.]

**Textual Amendments**

**F184** S. 209 substituted (31.7.2002 for E. and 30.9.2002 for W.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 19](#) (with [s. 20\(4\)](#)); [S.I. 2002/1799](#), [art. 2](#); [S.I. 2002/1736](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

**210 Suitability of accommodation.**

- (1) In determining for the purposes of this Part whether accommodation is suitable for a person, the local housing authority shall have regard to Parts IX, X and XI of the Housing Act 1985 (slum clearance; overcrowding; houses in multiple occupation).

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- (2) The Secretary of State may by order specify—
- (a) circumstances in which accommodation is or is not to be regarded as suitable for a person, and
  - (b) matters to be taken into account or disregarded in determining whether accommodation is suitable for a person.

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

**C83** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

**C84** S. 210 modified (*temp.*) (6.12.1999) by [S.I. 1999/3126](#), [arts.6, 7](#)

**Commencement Information**

**I48** S. 210 wholly in force 20.1.1997: s. 210 not in force at Royal Assent, see s. 232(1)-(3); s. 210(2) in force at 1.10.1996 by [S.I. 1996/2402](#), [art. 3](#) (with transitional provisions and savings in the [Sch.](#)); s. 210 in force at 20.1.1997 to the extent it is not already in force by [S.I. 1996/2959](#), [art. 2](#)

**211 Protection of property of homeless persons and persons threatened with homelessness.**

- (1) This section applies where a local housing authority have reason to believe that—
- (a) there is danger of loss of, or damage to, any personal property of an applicant by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under—  
section 188 (interim duty to accommodate),  
section 190, 193 or 195 (duties to persons found to be homeless or threatened with homelessness), or  
section 200 (duties to applicant whose case is considered for referral or referred),  
then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it.
- (3) If they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to—
- (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.
- (5) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.
- (6) Section 212 contains provisions supplementing this section.

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

**C85** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art.2\(1\)](#)

**212 Protection of property: supplementary provisions.**

- (1) The authority may for the purposes of section 211 (protection of property of homeless persons or persons threatened with homelessness)—
  - (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
  - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (2) Where the applicant asks the authority to move his property to a particular location nominated by him, the authority—
  - (a) may, if it appears to them that his request is reasonable, discharge their responsibilities under section 211 by doing as he asks, and
  - (b) having done so, have no further duty or power to take action under that section in relation to that property.

If such a request is made, the authority shall before complying with it inform the applicant of the consequence of their doing so.

- (3) If no such request is made (or, if made, is not acted upon) the authority cease to have any duty or power to take action under section 211 when, in their opinion, there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it.

But property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.

- (4) Where the authority—
  - (a) cease to be subject to a duty to take action under section 211 in respect of an applicant's property, or
  - (b) cease to have power to take such action, having previously taken such action, they shall notify the applicant of that fact and of the reason for it.
- (5) The notification shall be given to the applicant—
  - (a) by delivering it to him, or
  - (b) by leaving it, or sending it to him, at his last known address.
- (6) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

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

**C86** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

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## 213 Co-operation between relevant housing authorities and bodies.

- (1) Where a local housing authority—
- (a) request another relevant housing authority or body, in England, Wales or Scotland, to assist them in the discharge of their functions under this Part, or
  - (b) request a social services authority, in England, Wales or Scotland, to exercise any of their functions in relation to a case which the local housing authority are dealing with under this Part,

the authority or body to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

- (2) In subsection (1)(a) “relevant housing authority or body” means—
- (a) in relation to England and Wales, a local housing authority, a new town corporation, a registered social landlord or a housing action trust;
  - (b) in relation to Scotland, a local authority, a development corporation, a registered housing association or Scottish Homes.

Expressions used in paragraph (a) have the same meaning as in the <sup>M134</sup>Housing Act 1985; and expressions used in paragraph (b) have the same meaning as in the <sup>M135</sup>Housing (Scotland) Act 1987.

- (3) Subsection (1) above applies to a request by a local authority in Scotland under section 38 of the Housing (Scotland) Act 1987 as it applies to a request by a local housing authority in England and Wales (the references to this Part being construed, in relation to such a request, as references to Part II of that Act).

### Modifications etc. (not altering text)

C87 Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, art.2(1)

### Marginal Citations

M134 1985 c. 68.

M135 1987 c. 26.

## <sup>F185</sup>213A Co-operation in certain cases involving children

- (1) This section applies where a local housing authority have reason to believe that an applicant with whom a person under the age of 18 normally resides, or might reasonably be expected to reside—
- (a) may be ineligible for assistance;
  - (b) may be homeless and may have become so intentionally; or
  - (c) may be threatened with homelessness intentionally.
- (2) A local housing authority shall make arrangements for ensuring that, where this section applies—
- (a) the applicant is invited to consent to the referral of the essential facts of his case to the social services authority for the district of the housing authority (where that is a different authority); and
  - (b) if the applicant has given that consent, the social services authority are made aware of those facts and of the subsequent decision of the housing authority in respect of his case.



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- (3) Where the local housing authority and the social services authority for a district are the same authority (a “unitary authority”), that authority shall make arrangements for ensuring that, where this section applies—
- (a) the applicant is invited to consent to the referral to the social services department of the essential facts of his case; and
  - (b) if the applicant has given that consent, the social services department is made aware of those facts and of the subsequent decision of the authority in respect of his case.
- (4) Nothing in subsection (2) or (3) affects any power apart from this section to disclose information relating to the applicant’s case to the social services authority or to the social services department (as the case may be) without the consent of the applicant.
- (5) Where a social services authority—
- (a) are aware of a decision of a local housing authority that the applicant is ineligible for assistance, became homeless intentionally or became threatened with homelessness intentionally, and
  - (b) request the local housing authority to provide them with advice and assistance in the exercise of their social services functions under Part 3 of the Children Act 1989,
- the local housing authority shall provide them with such advice and assistance as is reasonable in the circumstances.
- (6) A unitary authority shall make arrangements for ensuring that, where they make a decision of a kind mentioned in subsection (5)(a), the housing department provide the social services department with such advice and assistance as the social services department may reasonably request.
- (7) In this section, in relation to a unitary authority—
- “the housing department” means those persons responsible for the exercise of their housing functions; and
- “the social services department” means those persons responsible for the exercise of their social services functions under Part 3 of the Children Act 1989.]

#### Textual Amendments

**F185** S. 213A inserted (30.9.2002 for W. and 1.10.2002 for E.) by 2002 c. 7, s. 12 (with s. 20(4)); S.I. 2002/1736, art. 2(1), Sch. 1 Pt. 1; S.I. 2002/1799, art. 3

### General provisions

#### 214 False statements, withholding information and failure to disclose change of circumstances.

- (1) It is an offence for a person, with intent to induce a local housing authority to believe in connection with the exercise of their functions under this Part that he or another person is entitled to accommodation or assistance in accordance with the provisions of this Part, or is entitled to accommodation or assistance of a particular description—
- (a) knowingly or recklessly to make a statement which is false in a material particular, or

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- (b) knowingly to withhold information which the authority have reasonably required him to give in connection with the exercise of those functions.
- (2) If before an applicant receives notification of the local housing authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible.

The authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).

- (3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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

**C88** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

**215 Regulations and orders.**

- (1) In this Part “prescribed” means prescribed by regulations of the Secretary of State.
- (2) Regulations or an order under this Part may make different provision for different purposes, including different provision for different areas.
- (3) Regulations or an order under this Part shall be made by statutory instrument.
- (4) Unless required to be approved in draft, regulations or an order under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

**C89** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art.2\(1\)](#)

**216 Transitional and consequential matters.**

- (1) The provisions of this Part have effect in place of the provisions of Part III of the <sup>M136</sup>Housing Act 1985 (housing the homeless) and shall be construed as one with that Act.
- (2) Subject to any transitional provision contained in an order under section 232(4) (power to include transitional provision in commencement order), the provisions of this Part do not apply in relation to an applicant whose application for accommodation or assistance in obtaining accommodation was made before the commencement of this Part.
- (3) The enactments mentioned in Schedule 17 have effect with the amendments specified there which are consequential on the provisions of this Part.

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

**C90** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art.2](#)

**Marginal Citations**

**M136** 1985 c. 68.

**217 Minor definitions: Part VII.**

(1) In this Part, subject to subsection (2)—

[<sup>F186</sup>“private landlord” means a landlord who is not within section 80(1) of the Housing Act 1985 (c. 68) (the landlord condition for secure tenancies);]

“relevant authority” means a local housing authority or a social services authority; and

“social services authority” means a local authority for the purposes of the <sup>M137</sup>Local Authority Social Services Act 1970, as defined in section 1 of that Act.

(2) In this Part, in relation to Scotland—

(a) “local housing authority” means a local authority within the meaning of the <sup>M138</sup>Housing (Scotland) Act 1988, and

(b) “social services authority” means a local authority for the purposes of the <sup>M139</sup>Social Work (Scotland) Act 1968.

(3) References in this Part to the district of a local housing authority—

(a) have the same meaning in relation to an authority in England or Wales as in the Housing Act 1985, and

(b) in relation to an authority in Scotland, mean the area of the local authority concerned.

**Textual Amendments**

**F186** S. 217(1): definition inserted (31.7.2002 for E. and 30.9.2002 for W.) by [2002 c. 7, s. 18\(1\)](#), [Sch. 1 para. 20](#) (with [s. 20\(4\)](#)); [S.I. 2002/1799](#), [art. 2](#); [S.I. 2002/1736](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

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

**C91** Ss. 183-218 modified (3.4.1997) by [S.I. 1997/797](#), [art. 2\(1\)](#)

**Marginal Citations**

**M137** 1970 c. 42.

**M138** 1988 c. 43.

**M139** 1968 c. 49.

**218 Index of defined expressions: Part VII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section)—

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accommodation available for occupation	section 176
applicant	section 183(2)
assistance under this Part	section 183(2)
associated (in relation to a person)	section 178
assured tenancy and assured shorthold tenancy	section 230
district (of local housing authority)	section 217(3)
eligible for assistance	section 183(2)
homeless	section 175(1)
housing functions under this Part (in sections [ <sup>F187</sup> 206 and 208])	section 205(2)
intentionally homeless	section 191
intentionally threatened with homelessness	section 196
local connection	section 199
local housing authority—	section 230
-in England and Wales	section 217(2)(a)
-in Scotland	
<b>F188</b>	<b>F188</b>
...	...
prescribed	section 215(1)
priority need	section 189
[ <sup>F189</sup> private landlord	section 217(1)]
reasonable to continue to occupy accommodation	section 177
registered social landlord	section 230
relevant authority	section 217(1)
social services authority	section 217(1) and (2)(b)
threatened with homelessness	section 175(4)

#### Textual Amendments

- F187** S. 218: words in entry substituted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 21(a)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F188** S. 218: entry repealed (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 20(1), **Sch. 2** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**
- F189** S. 218: entry inserted (31.7.2002 for E. and 30.9.2002 for W.) by 2002 c. 7, s. 18(1), **Sch. 1 para. 21(b)** (with s. 20(4)); S.I. 2002/1799, **art. 2**; S.I. 2002/1736, **art. 2(1)**, **Sch. Pt. 1**

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

**C92** Ss. 183-218 modified (3.4.1997) by S.I. 1997/797, art. 2(1)

## PART VIII

### MISCELLANEOUS AND GENERAL PROVISIONS

**Extent Information**

**E1** For extent of Part VIII, see s. 231(2)-(4)

#### *Miscellaneous*

#### [<sup>F190</sup>218A] **Anti-social behaviour: landlords' policies and procedures**

- (1) This section applies to the following landlords—
  - (a) a local housing authority;
  - (b) a housing action trust;
  - (c) a registered social landlord.
- (2) The landlord must prepare—
  - (a) a policy in relation to anti-social behaviour;
  - (b) procedures for dealing with occurrences of anti-social behaviour.
- (3) The landlord must not later than 6 months after the commencement of section 12 of the Anti-social Behaviour Act 2003 publish a statement of the policy and procedures prepared under subsection (2).
- (4) The landlord must from time to time keep the policy and procedures under review and, when it thinks appropriate, publish a revised statement.
- (5) A copy of a statement published under subsection (3) or (4)—
  - (a) must be available for inspection at all reasonable hours at the landlord's principal office;
  - (b) must be provided on payment of a reasonable fee to any person who requests it.
- (6) The landlord must also—
  - (a) prepare a summary of its current policy and procedures;
  - (b) provide without charge a copy of the summary to any person who requests it.
- (7) In preparing and reviewing the policy and procedures the landlord must have regard to guidance issued—
  - (a) by the Secretary of State in the case of a local housing authority or a housing action trust;
  - (b) by the Relevant Authority under section 36 in the case of a registered social landlord.
- (8) Anti-social behaviour is any conduct to which section 153A or 153B applies.

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(9) Relevant Authority has the same meaning as in Part 1.]

#### Textual Amendments

**F190** S. 218A inserted (30.6.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 12(1)**, 93; S.I. 2004/1502, art. 2(a)(i)

### 219 Directions as to certain charges by social landlords.

- (1) The Secretary of State may give directions to social landlords about the making of service charges in respect of works of repair, maintenance or improvement—
  - (a) requiring or permitting the waiver or reduction of charges where relevant assistance is given by the Secretary of State, and
  - (b) permitting the waiver or reduction of charges in such other circumstances as may be specified in the directions.
- (2) A direction shall not require the waiver or reduction of charges by reference to assistance for which application was made before the date on which the direction was given, but subject to that directions may relate to past charges or works to such extent as appears to the Secretary of State to be appropriate.
- (3) Directions which require or permit the waiver or reduction of charges have corresponding effect—
  - (a) in relation to charges already demanded so as to require or permit the non-enforcement of the charges, and
  - (b) in relation to charges already paid so as to require or permit a refund.
- (4) For the purposes of this section “social landlord” means—
  - (a) an authority or body within section 80(1) of the <sup>M140</sup>Housing Act 1985 (the landlord condition for secure tenancies), other than a housing co-operative, or
  - (b) a registered social landlord.
- (5) In this section “assistance” means grant or other financial assistance of any kind; and directions may specify what assistance is relevant for the purposes of this section, and to what buildings or other land any assistance is to be regarded as relevant.
- (6) The provisions of section 220 supplement this section.

#### Marginal Citations

**M140** 1985 c. 68.

### 220 Directions as to certain charges: supplementary provisions.

- (1) Directions under section 219 may make different provision for different cases or descriptions of case.

This includes power to make—

- (a) different provision for different social landlords or descriptions of social landlords, and
- (b) different provision for different areas.

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- (2) Directions under section 219 requiring the reduction of a service charge may specify the amount (or proportion) of the reduction or provide for its determination in such manner as may be specified.
- (3) Directions under section 219 permitting the waiver or reduction of a service charge may specify criteria to which the social landlord is to have regard in deciding whether to do so or to what extent.
- (4) The Secretary of State shall publish any direction under section 219 relating to all social landlords or any description of social landlords in such manner as he considers appropriate for bringing it to the notice of the landlords concerned.
- (5) For the purposes of section 219 “service charge” means an amount payable by a lessee of a dwelling—
  - (a) which is payable, directly or indirectly, for repairs, maintenance or improvements, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (6) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the social landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

For this purpose costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

- (7) In this section—
  - “costs” includes overheads, and
  - “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling.

## **221 Exercise of compulsory purchase powers in relation to Crown land.**

- (1) This section applies to any power to acquire land compulsorily under—
  - (a) the Housing Act 1985,
  - (b) the <sup>M141</sup>Housing Associations Act 1985,
  - (c) Part III of the <sup>M142</sup>Housing Act 1988 (housing action trust areas), or
  - (d) Part VII of the <sup>M143</sup>Local Government and Housing Act 1989 (renewal areas).
- (2) Any power to which this section applies may be exercised in relation to an interest in Crown land which is for the time being held otherwise than by or on behalf of the Crown, but only with the consent of the appropriate authority.
- (3) In this section “Crown land” means land in which there is a Crown interest or a Duchy interest.

For this purpose—

“Crown interest” means an interest belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department; and

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.

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- (4) For the purposes of this section “the appropriate authority”, in relation to Crown land, is—
- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department having the management of that land;
  - (c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (d) in relation to land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department.
- (5) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

#### **Extent Information**

**E2** For extent of s. 221, see s. 231(2)(4)(a)

#### **Marginal Citations**

**M141** 1985 c. 69.

**M142** 1988 c. 50.

**M143** 1989 c. 42.

## **222 Miscellaneous minor amendments.**

The enactments mentioned in Schedule 18 have effect with the amendments specified there, which are miscellaneous minor amendments relating to housing.

Part I relates to housing management.

Part II relates to housing finance.

Part III relates to orders in relation to property in family and matrimonial proceedings, &c.

Part IV relates to other housing provisions.

#### **Commencement Information**

**I49** S. 222 wholly in force 1.10.1996: s. 222 in force for certain purposes at 24.9.1996, see s. 232(2) and [S.I. 1996/2402, art. 2](#); s. 222 in force at 1.10.1996 in so far as not already in force by [S.I. 1996/2402, art. 3](#) (with transitional provisions and savings in the [Sch.](#))

### *General*

## **223 Offences by body corporate.**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other



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similar officer of the body corporate, or a person purporting to act in such a capacity, he as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### **224 The Common Council of the City of London.**

- (1) The Common Council of the City of London may appoint a committee, consisting of so many persons as they think fit, for any purposes of this Act which in their opinion may be better regulated and managed by means of a committee.
- (2) A committee so appointed—
- (a) shall consist as to a majority of its members of members of the Common Council, and
  - (b) shall not be authorised to borrow money or to make a rate, and shall be subject to any regulations and restrictions which may be imposed by the Common Council.
- (3) A person is not, by reason only of the fact that he occupies a house at a rental from the Common Council, disqualified from being elected or being a member of that Council or any committee of that Council; but no person shall vote as a member of that Council, or any such committee, on a resolution or question which is proposed or arises in pursuance of this Act and relates to land in which he is beneficially interested.
- (4) A person who votes in contravention of subsection (3) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale; but the fact of his giving the vote does not invalidate any resolution or proceeding of the authority.

#### **225 The Isles of Scilly.**

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

#### **226 Corresponding provision for Northern Ireland.**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the<sup>M144</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of section 120 (payment of housing benefit to third parties)—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament), but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### Marginal Citations

M144 1974 c. 28.

## 227 Repeals.

The enactments specified in Schedule 19 are repealed to the extent specified.

### Modifications etc. (not altering text)

**C93** S. 227 restricted (22.8.1996) by [S.I. 1996/2212, art. 2\(2\)](#), [Sch. para 4](#).

### Commencement Information

**I50** S. 227 partly in force (for certain purposes) at:  
 25.9.1996, see s. 232(2)  
 1.10.1996 by [S.I. 1996/2212, art. 2\(2\)](#)  
 24.9.1996 and 1.10.1996 by [S.I. 1996/2402, arts. 2, 3](#) (with transitional provisions and savings in the Sch. to that S.I.)  
 20.1.1997 and 1.4.1997 by [S.I. 1996/2959, arts. 2, 3](#)  
 28.2.1997 by [s.I 1997/225, art. 2](#)  
 3.3.1997 by [S.I. 1997/596, art. 2](#)  
 1.4.1997 by [S.I. 1997/618, art. 2](#) (subject to the limitation in (2) of that art.)  
 1.9.1997 by [S.I. 1997/1851, art. 2](#) (subject to the saving in Sch. para. 1 of that S.I.)

## 228 Financial provisions.

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenses of the Secretary of State incurred in consequence of this Act, and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) There shall be paid out of the National Loans Fund any increase attributable to this Act in the sums so payable under any other enactment.
- (3) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

## 229 Meaning of “lease” and “tenancy” and related expressions.

- (1) In this Act “lease” and “tenancy” have the same meaning.
- (2) Both expressions include—
  - (a) a sub-lease or a sub-tenancy, and
  - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant”, and references to letting, to the grant of a lease or to covenants or terms, shall be construed accordingly.

## 230 Minor definitions: general.

In this Act—

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“assured tenancy”, “assured shorthold tenancy” and “assured agricultural occupancy” have the same meaning as in Part I of the <sup>M145</sup>Housing Act 1988;  
“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M146</sup>Interpretation Act 1978);  
“housing action trust” has the same meaning as in the Housing Act 1988;  
“housing association” has the same meaning as in the <sup>M147</sup>Housing Associations Act 1985;  
“introductory tenancy” and “introductory tenant” have the same meaning as in Chapter I of Part V of this Act;  
“local housing authority” has the same meaning as in the <sup>M148</sup>Housing Act 1985;  
“registered social landlord” has the same meaning as in Part I of this Act;  
“secure tenancy” and “secure tenant” have the same meaning as in Part IV of the Housing Act 1985.

**Marginal Citations**

**M145** 1988 c. 50.  
**M146** 1978 c. 30.  
**M147** 1985 c. 69.  
**M148** 1985 c. 68.

*Final provisions*

**231 Extent.**

- (1) The provisions of this Act extend to England and Wales, and only to England and Wales, subject as follows.
- (2) The following provisions also extend to Scotland—  
Part IV (housing benefit and related matters), and  
the provisions of this Part so far as relating to Part IV.
- (3) Section 226 (power to make corresponding provision for Northern Ireland) also extends to Northern Ireland.
- (4) Any amendment or repeal by this Act of an enactment has the same extent as the enactment amended or repealed, except that—
  - (a) amendments or repeals of provisions of the Housing Associations Act 1985, other than in consequence of paragraph 1 of Schedule 18 to this Act (repeal of Part IV of the Housing Act 1988), do not extend to Scotland,
  - (b) amendments or repeals of provisions of the Housing Act 1988 relating to registered housing associations do not extend to Scotland,
  - (c) amendments or repeals of provisions of the <sup>M149</sup>Asylum and Immigration Appeals Act 1993 or the <sup>M150</sup>Asylum and Immigration Act 1996 do not extend to Scotland or Northern Ireland, and
  - (d) repeals of the following provisions do not extend to Scotland—
    - (i) section 24(5)(a) and (c) of the <sup>M151</sup>Local Government Act 1988,
    - (ii) section 182 of the <sup>M152</sup>Local Government and Housing Act 1989,
    - (iii) paragraph 21(3) of Schedule 6 to the <sup>M153</sup>Charities Act 1993, and

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(iv) provisions in Schedule 26 to the <sup>M154</sup>Local Government, Planning and Land Act 1980.

(5) Any power conferred by this Act to make consequential amendments or repeals of enactments may be exercised in relation to enactments as they extend to any part of the United Kingdom.

#### Marginal Citations

**M149** 1993 c. 23.

**M150** 1996 c. 49.

**M151** 1988 c. 9.

**M152** 1989 c. 42.

**M153** 1993 c. 10.

**M154** 1980 c. 65.

## 232 Commencement.

- (1) The following provisions of this Act come into force on Royal Assent—  
 section 110 (new leases: valuation principles),  
 section 120 (payment of housing benefit to third parties), and  
 sections 223 to 226 and 228 to 233 (general provisions).
- (2) The following provisions of this Act come into force at the end of the period of two months beginning with the date on which this Act is passed—  
 sections 81 and 82 (restriction on termination of tenancy for failure to pay service charge),  
 section 85 (appointment of manager by the court),  
 section 94 (provision of general legal advice about residential tenancies),  
 section 95 (jurisdiction of county courts),  
 section 221 (exercise of compulsory purchase powers in relation to Crown land),  
 paragraph 24 (powers of local housing authorities to acquire land for housing purposes), paragraph 26 (preserved right to buy) and paragraphs 27 to 29 of Schedule 18 (local authority assistance in connection with mortgages), and  
 sections 222 and 227, and Schedule 19 (consequential repeals), in so far as they relate to those paragraphs.
- (3) The other provisions of this Act come into force on a day appointed by order of the Secretary of State, and different days may be appointed for different areas and different purposes.
- (4) An order under subsection (3) shall be made by statutory instrument and may contain such transitional provisions and savings as appear to the Secretary of State to be appropriate.

#### Subordinate Legislation Made

**P1** S. 232(3)(4) power of appointment exercised for specified provisions as follows:

1.8.1996 appointed (30.7.1996) by [S.I. 1996/2048](#), [arts. 2-4](#)

23.8.1996 and 1.10.1996 appointed (22.8.1996) by [S.I. 1996/2212](#), [arts. 1, 2](#)

24.9.1996 and 1.10.1996 appointed (16.9.1996) by [S.I. 1996/2402](#), [arts. 2-5](#)

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23.10.1996 appointed (15.10.1996) by S.I. 1996/2658, **art. 2**  
20.1.1997 and 1.4.1997 appointed (25.11.1996) by S.I. 1996/2959, **arts. 2, 3**  
4.2.1997 appointed (14.1.1997) by S.I. 1997/66, **arts. 1, 2**  
28.2.1997 appointed (28.1.1997) by S.I. 1997/225, **arts. 1, 2**  
3.3.1997 appointed (13.2.1997) by S.I. 1997/350, **art. 2** and (26.2.1997) by S.I. 1997/596, **art. 2**  
1.4.1997 and 1.4.1998 appointed (5.3.1997) by S.I. 1997/618, **arts. 2, 3**  
1.9.1997 appointed (25.7.1997) by S.I. 1997/1851, **arts. 1, 2**  
11.8.1998 appointed (21.7.1998) by S.I. 1998/1768, **art. 2**  
15.10.2001 appointed (12.9.2001) by S.I. 2001/3164, **art. 2**

### 233 Short title.

This Act may be cited as the Housing Act 1996.

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