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Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

Introductory tenancies

179 Extension of introductory tenancies

- (1) Part 5 of the Housing Act 1996 (c. 52) (conduct of tenants) is amended as follows.
- (2) In section 125(2) (trial period for introductory tenancy to be one year) for “subject as follows” substitute “ but this is subject to subsections (3) and (4) and to section 125A (extension of trial period by 6 months).”
- (3) After section 125 insert—

“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

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- (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.

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.
- (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.”

- (4) The amendments made by this section do not apply in relation to any tenancy entered into before, or in pursuance of an agreement made before, the day on which this section comes into force.

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Commencement Information

- II** S. 179 wholly in force at 25.11.2005; s. 179(3) in force for certain purposes at Royal Assent see s. 270(2)(b); s. 179 in force for E. at 6.6.2005 by S.I. 2005/1451, **art. 2(a)**; s. 179 in force for W. at 25.11.2005 by S.I. 2005/3237, **art. 2(f)**

Right to buy: when exercisable

180 Extension of qualifying period for right to buy

- (1) In section 119(1) of the Housing Act 1985 (c. 68) (qualifying period for right to buy) for “two” substitute “ five ”.
- (2) In subsection (2)(a) of section 129 of that Act (discount)—
 - (a) for “two” substitute “ five ”; and
 - (b) for “32 per cent” substitute “ 35 per cent ”.
- (3) In subsection (2)(b) of that section—
 - (a) for “two”, where it appears for the second time, substitute “ five ”; and
 - (b) for “44 per cent” substitute “ 50 per cent ”.
- (4) In subsection (2A)(b) of that section for “two” substitute “ five ”.
- (5) The amendments made by this section do not apply in relation to a secure tenancy—
 - (a) if the tenancy was entered into before, or in pursuance of an agreement made before, the day on which this section comes into force, or
 - (b) if paragraph (a) does not apply but the tenant is a public sector tenant on that day and does not cease to be such a tenant at any time before serving a notice in respect of the tenancy under section 122 of that Act.
- (6) In subsection (5) “public sector tenant” has the same meaning as in Schedule 4 to that Act.

VALID FROM 04/07/2005

181 Exceptions to the right to buy: determination whether exception for dwelling-house suitable for elderly persons applies

- (1) In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) paragraph 11 (single dwelling-house particularly suitable for elderly persons) is amended as follows.
- (2) In sub-paragraph (4) (questions arising under paragraph 11 to be determined by the Secretary of State), for “the Secretary of State” (in both places) substitute “ the appropriate tribunal or authority ”.
- (3) After sub-paragraph (5) insert—

“(5A) In this paragraph “the appropriate tribunal or authority” means—

 - (a) in relation to England, a residential property tribunal; and
 - (b) in relation to Wales, the Secretary of State.

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- (5B) Section 231 of the Housing Act 2004 (appeals to Lands Tribunal) does not apply to any decision of a residential property tribunal under this paragraph.”
- (4) Subsections (5) and (6) apply to any application under paragraph 11(4) in respect of a dwelling-house in England which—
- (a) has been made to the Secretary of State before the day on which this section comes into force, and
 - (b) has not been determined by him before that day.
- (5) If the application was made more than 28 days before that day, it is to be determined by the Secretary of State as if the amendments made by this section had not come into force.
- (6) Otherwise—
- (a) the application is to be determined by a residential property tribunal, and
 - (b) the Secretary of State must make all such arrangements as he considers necessary for the purpose of, or in connection with, enabling it to be so determined.

Commencement Information

- I2** S. 181 partly in force; s. 181 not in force at Royal Assent see s. 270(4)(5); s. 181 in force for E. at 4.7.2005 by S.I. 2005/1729, art. 2(a) (subject to art. 3)

182 Exceptions to the right to buy: houses due to be demolished

- (1) In Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy) after paragraph 12 insert—

“Dwelling-house due to be demolished within 24 months

- 13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.
- (2) A “final demolition notice” is a notice—
- (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
 - (b) setting out the reasons why the landlord intends to demolish the relevant premises,
 - (c) specifying—
 - (i) the date by which he intends to demolish those premises (“the proposed demolition date”), and
 - (ii) the date when the notice will cease to be in force (unless extended under paragraph 15),
 - (d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and
 - (e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.

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- (3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—
- (a) that that claim ceases to be effective on the notice coming into force, but
 - (b) that section 138C confers a right to compensation in respect of certain expenditure,
- and the notice shall also give details of that right to compensation and of how it may be exercised.
- (4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.
- (5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—
- (a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and
 - (b) the provisions of paragraph 15(1) to (7).
- (6) If—
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
 - (b) the landlord intends to demolish the whole of the building,
- the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as “the occupier”).
- An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.
- (7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—
- (a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and
 - (b) in any newspaper published by the landlord, and
 - (c) on the landlord’s website (if he has one).
- (8) The notice mentioned in sub-paragraph (7) must contain the following information—
- (a) sufficient information to enable identification of the premises that the landlord intends to demolish;
 - (b) the reasons why the landlord intends to demolish those premises;
 - (c) the proposed demolition date;
 - (d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;

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- (e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;
 - (f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.
- (9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.
- 14 (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.
- (2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.
- (3) Condition B is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but
 - (b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.
- (4) Condition C is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and
 - (b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but
 - (c) in each case arrangements for their acquisition are in place.
- (5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—
- (a) an agreement under which the landlord is entitled to acquire the premises is in force, or
 - (b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or
 - (c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.
- (6) In this paragraph—
- “premises” means premises of any description;
 - “scheme” includes arrangements of any description.
- 15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.
- (2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such

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requirements relating to the service of further notices as are specified in the direction.

- (3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).
- (4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice (“a revocation notice”) on the tenant which informs him—
 - (a) of the landlord’s decision, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- (5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice (“a revocation notice”) on the tenant which informs him—
 - (a) of the Secretary of State’s conclusion, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice.

Section 169 applies in relation to the Secretary of State’s power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.

- (6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State’s intention to serve the revocation notice.
- (7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.
- (8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless—
 - (a) it is served with the consent of the Secretary of State, and
 - (b) it states that it is so served.
- (9) The Secretary of State’s consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

- 16
- (1) Any notice under paragraph 13 or 15 may be served on a person—
 - (a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.
 - (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—

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- (a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and
- (b) in any other case, the last known address of that person.”

- (2) The amendment made by this section does not apply in any case where the tenant’s notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

183 Right to buy: claim suspended or terminated by demolition notice

- (1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease), after the subsection (2D) inserted by section 193 of this Act, insert—

“(2E) Subsection (1) also has effect subject to—

- (a) section 138A(2) (operation of subsection (1) suspended while initial demolition notice is in force), and
- (b) section 138B(2) (subsection (1) disapplied where final demolition notice is served).”

- (2) After section 138 of that Act insert—

“138A Effect of initial demolition notice served before completion

- (1) This section applies where—
- (a) an initial demolition notice is served on a secure tenant under Schedule 5A, and
 - (b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.
- (2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

138B Effect of final demolition notice served before completion

- (1) This section applies where—
- (a) a secure tenant has claimed to exercise the right to buy, but
 - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.
- (2) In such a case—
- (a) the tenant’s claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and
 - (b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant’s claim, at any time after the notice comes into force.

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- (3) Section 138C provides a right to compensation in certain cases where this section applies.

138C Compensation where demolition notice served

- (1) This section applies where—
- (a) a secure tenant has claimed to exercise the right to buy,
 - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and
 - (c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).
- (2) If, within the period of three months beginning with the date when the notice comes into force (“the operative date”), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.
- (3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.
- (4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question.”
- (3) After Schedule 5 to the Act insert, as Schedule 5A, the Schedule set out in Schedule 9 to this Act.
- (4) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claim to exercise right to buy) was served before the day on which this section comes into force.

184 Landlord's notice to complete

- (1) Section 140 of the Housing Act 1985 (c. 68) (landlord's first notice to complete) is amended as follows.
- (2) In subsection (3) (notice not to be served earlier than twelve months after landlord's notice under section 125 or 146) for “twelve” substitute “ three ”.
- (3) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming right to buy) was served before the day on which this section comes into force.

Right to buy: discounts

185 Repayment of discount: periods and amounts applicable

- (1) Section 155 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

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(2) For subsections (2) and (3) substitute—

“(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant.

(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment.”

(3) In subsection (3A) (modifications where tenant has served operative notice of delay) for “three years” substitute “ five years ”.

(4) After section 155 insert—

“155A Amount of discount which may be demanded by landlord: right to buy

(1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) 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 discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.

(3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(4) This section is subject to section 155C.

155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms

(1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—

- (a) the initial payment,
- (b) any interim payment made before the disposal, or
- (c) the final payment if so made,

reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal.”

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- (5) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.
- (6) Subsection (7), however, applies in any such case if the first relevant disposal to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (7) In the following provisions—
 - (a) section 155(2) and (3) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and
 - (b) any covenant for repayment of discount,
any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.
- (8) In subsections (6) and (7) “covenant for repayment of discount” means the covenant contained in a conveyance or grant in accordance with section 155 of that Act.

186 Repayment of discount: increase attributable to home improvements to be disregarded

- (1) After section 155B of the Housing Act 1985 (c. 68) (inserted by section 185 of this Act) insert—

“155C Increase attributable to home improvements

- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
 - (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance or grant 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.”
- (2) In section 181 of that Act (jurisdiction of county court) for “and 158” substitute “ , 155C and 158 ”.

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187 Deferred resale agreements

(1) After section 163 of the Housing Act 1985 insert—

“163A Treatment of deferred resale agreements for purposes of section 155

- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 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 secure tenant or his successor in title and any other person—
 - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,
 - (b) which is made before the end of the discount repayment period, and
 - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
 - (a) whether or not the date on which the disposal is to take place is specified in the agreement, and
 - (b) whether or not any requirement to make the 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 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004).”

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- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Commencement Information

- I3** S. 187 wholly in force at 18.1.2005; s. 187 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

Right to buy: landlord's right of first refusal

188 Right of first refusal for landlord etc.

- (1) After section 156 of the Housing Act 1985 (c. 68) insert—

“156A Right of first refusal for landlord etc.

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, 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 or grant 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 landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, or
 - 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 158.
- (5) The disposals within this subsection are—
- a reconveyance or conveyance of the dwelling-house; and
 - a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;
 - 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;
 - for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient

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- 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 former tenant 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 former tenant 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 former tenant is a reference to the former tenant or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) In a case to which section 157(1) applies—
- (a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but
 - (b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.
- (9) Consent may be given in relation to—
- (a) a particular disposal, or
 - (b) disposals by a particular landlord or disposals by landlords generally, and may, in any case, be given subject to conditions.
- (10) 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.
- (11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.
- (12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.”
- (2) In section 157 of that Act (restriction on disposal of dwelling-houses in National Parks etc.)—
- (a) in subsection (1), after “the conveyance or grant may” insert “ (subject to section 156A(8) ”;
 - (b) in subsection (2), omit “, subject to subsection (4),”; and

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- (c) omit subsections (4) and (5) (which provide for a landlord’s right of first refusal).
- (3) In section 158 of that Act (consideration for conveyance or surrender under section 157)—
 - (a) in the sidenote, for “reconveyance or surrender under section 157” substitute “disposal under section 156A”;
 - (b) for subsection (1) substitute—
 - “(1) The consideration for such a disposal as is mentioned in section 156A(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 dwelling-house at the time when the offer is made (as determined in accordance with regulations under that section).”;
 - (c) in subsection (2), for “or surrendered” substitute “, conveyed, surrendered or assigned”;
 - (d) in subsection (3), for “the landlord accepts the offer,” substitute “the offer is accepted in accordance with regulations under section 156A,”; and
 - (e) in subsection (4), for “to reconvey or surrender” substitute “(as determined in accordance with regulations under section 156A).”
- (4) In section 162 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—
 - “(aa) the covenant required by section 156A (right of first refusal for landlord etc.) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and”.
- (5) The amendments made by this section do not apply in relation to a conveyance of the freehold or grant of a lease in pursuance of Part 5 of that Act if the notice under section 122 of the Act (tenant’s notice claiming to exercise right to buy) was served before the day on which this section comes into force.
- (6) Accordingly, nothing in this section affects—
 - (a) the operation of a limitation contained in such a conveyance or grant in accordance with section 157(4) of that Act, or
 - (b) the operation, in relation to such a limitation, of section 157(6) (so far as it renders a disposal in breach of covenant void) or section 158 (consideration payable) of that Act.

Commencement Information

I4 S. 188 wholly in force at 18.1.2005; s. 188 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

Right to buy: information

189 Information to help tenants decide whether to exercise right to buy etc.

- (1) After section 121 of the Housing Act 1985 (c. 68) insert—

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“121AA Information to help tenants decide whether to exercise right to buy etc.

- (1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.
- (2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.
- (3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—
 - (a) shall be such as the body concerned considers appropriate, but
 - (b) shall be in a form which the body considers best suited to explaining those matters in simple terms.
- (4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—
 - (a) is kept up to date so far as is reasonably practicable, and
 - (b) reflects any changes in the matters for the time being specified in an order under this section.
- (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.

121B Provision of information

- (1) This section sets out when the document prepared by a body under section 121AA is to be published or otherwise made available.
- (2) The body shall—
 - (a) publish the document (whether in its original or a revised form), and
 - (b) supply copies of it to the body’s secure tenants,
 at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.
- (3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.
- (4) The copies must be made available for that purpose—
 - (a) at the body’s principal offices, and
 - (b) at such other places as it considers appropriate,
 at reasonable hours.
- (5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).

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- (6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).
- (7) 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.”
- (2) In section 104(1) of that Act (provision of information about tenancies), in paragraph (b) (information about Part 4 and Part 5), omit “and Part V (the right to buy)”.

Commencement Information

- I5** S. 189 wholly in force at 18.1.2005; s. 189 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

PROSPECTIVE

Right to buy: termination of rent to mortgage scheme

190 Termination of rent to mortgage scheme

- (1) Before section 143 of the Housing Act 1985 (c. 68) insert—

“142A Termination of the right to acquire on rent to mortgage terms

- (1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.
- (2) In this section “the termination date” means the date falling 8 months after the date of the passing of the Housing Act 2004.”
- (2) In section 143(1) of that Act after “sections” insert “ 142A, ”.
- (3) In section 144(1) of that Act for “A secure tenant” substitute “ Subject to section 142A, a secure tenant ”.

Suspension of certain rights in connection with anti-social behaviour

191 Secure tenancies: withholding of consent to mutual exchange

- (1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert—

“Ground 2A

Either—

- (a) a relevant order or suspended Ground 2 or 14 possession order is in force, or

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(b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made, in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);

an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);

an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or

an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.”

- (2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force.

Commencement Information

- I6** S. 191 wholly in force at 14.7.2005; s. 191 not in force at Royal Assent see s. 270(4)(5); s. 191 in force for E. at 6.6.2005 by [S.I. 2005/1451](#), [art. 2\(b\)](#); s. 191 in force for W. at 14.7.2005 by [S.I. 2005/1814](#), [art. 2\(a\)](#)

192 Right to buy: suspension by court order

- (1) In section 121 of the Housing Act 1985 (circumstances in which right to buy cannot be exercised), after subsection (2) insert—

“(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy.”

- (2) After section 121 of that Act insert—

“121A Order suspending right to buy because of anti-social behaviour

- (1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.

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- (2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order (“the suspension period”).
 - (3) The court must not make a suspension order unless it is satisfied—
 - (a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and
 - (b) that it is reasonable to make the order.
 - (4) When deciding whether it is reasonable to make the order, the court must consider, in particular—
 - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and
 - (b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
 - (5) Where a suspension order is made—
 - (a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and
 - (b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but
 - (c) the order does not affect the computation of any period in accordance with Schedule 4.
 - (6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.
 - (7) The court must not make such a further order unless it is satisfied—
 - (a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and
 - (b) that it is reasonable to make the further order.
 - (8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—
 - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and
 - (b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
 - (9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.”
- (3) Regulations under—

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- (a) section 171C of that Act (modifications of Part 5 in relation to preserved right to buy), or
- (b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.

Commencement Information

- I7** S. 192 wholly in force at 25.11.2005; s. 192 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 192 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 192 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

193 Right to buy: suspension of landlord's obligation to complete

- (1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease) after subsection (2) insert—

“(2A) Subsection (2B) applies if an application is pending before any court—

- (a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or
- (b) for a suspension order to be made in respect of the tenancy.

(2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

- (a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or
- (b) a suspension order being made in respect of the tenancy,

or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

“demotion order” means a demotion order under section 82A;

“Ground 2 possession order” means an order for possession under Ground 2 in Schedule 2;

“operative Ground 2 possession order” means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

“suspension order” means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made).”

- (2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

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Commencement Information

- 18** S. 193 wholly in force at 25.11.2005; s. 193 not in force at Royal Assent see s. 270(4)(5); s. 193 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 193 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

194 Disclosure of information as to orders etc. in respect of anti-social behaviour

- (1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord—
- (a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or
 - (b) to take any appropriate action in relation to the tenant in reliance on either of those provisions.
- (2) The provisions are—
- (a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and
 - (b) section 138(2B) (landlord's obligation to complete suspended while application pending in connection with such behaviour).
- (3) In this section—
- (a) “relevant information” means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made;
 - (b) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985; and
 - (c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.
- (4) Regulations under—
- (a) section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), or
 - (b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),
- may make provision corresponding to subsections (1) to (3) of this section so far as those subsections relate to section 138(2B) of the Housing Act 1985.

Commencement Information

- 19** S. 194 wholly in force at 25.11.2005; s. 194 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 194 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 194 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

Status:

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