



# Housing Act 2004

## 2004 CHAPTER 34

### PART 6

#### OTHER PROVISIONS ABOUT HOUSING

#### CHAPTER 1

#### SECURE TENANCIES

#### *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.

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- (6) In subsection (5) “public sector tenant” has the same meaning as in Schedule 4 to that Act.

**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.
- (5B) Section 231 of the Housing Act 2004 (appeals to [<sup>F1</sup>Upper 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 [<sup>F2</sup>the appropriate 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.

**Textual Amendments**

- F1** Words in s. 181(3) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 275** (with Sch. 5)
- F2** Words in s. 181(6)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 172** (with Sch. 3)

**Commencement Information**

- I1** 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](#))

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## **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.
- (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,

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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;
  - (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—

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- (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 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.

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- (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—
- (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) disappplied 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

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- (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.
- (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."

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- (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.



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)