



# Localism Act 2011

## 2011 CHAPTER 20

### PART 7

#### HOUSING

### CHAPTER 2

#### SOCIAL HOUSING: TENURE REFORM

##### *Other provisions relating to tenancies of social housing*

#### **156 Creation of tenancies of social housing**

(1) In section 52 of the Law of Property Act 1925 (requirement that conveyances of land and interests in land be made by deed) in subsection (2) (exceptions) after paragraph (d) insert—

“(da) flexible tenancies;

(db) assured tenancies of dwelling-houses in England that are granted by private registered providers of social housing and are not long tenancies or shared ownership leases;”.

(2) After that subsection insert—

“(3) In this section—

“assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;

“dwelling-house” has the same meaning as in Part 1 of the Housing Act 1988;

“flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;

“long tenancy” means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before

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the end of that term by notice given by the tenant or by re-entry or forfeiture;

“shared ownership lease” means a lease of a dwelling-house—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
- (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”

### **157 Registration of tenancies of social housing**

(1) The Land Registration Act 2002 is amended as follows.

(2) In section 3 (voluntary registration of title) after subsection (4) insert—

“(4A) A person may not make an application under subsection (2) in respect of a leasehold estate in land under a relevant social housing tenancy.”

(3) In section 4 (compulsory registration of title) after subsection (5) insert—

“(5A) Subsection (1) does not apply to the transfer or grant of a leasehold estate in land under a relevant social housing tenancy.”

(4) In section 27 (dispositions required to be registered) after subsection (5) insert—

“(5A) This section does not apply to—

- (a) the grant of a term of years absolute under a relevant social housing tenancy, or
- (b) the express grant of an interest falling within section 1(2) of the Law of Property Act 1925, where the interest is created for the benefit of a leasehold estate in land under a relevant social housing tenancy.”

(5) In section 33 (interests in respect of which notice may not be entered on the register) after paragraph (b) insert—

“(ba) an interest under a relevant social housing tenancy.”.

(6) In section 132(1) (interpretation) at the appropriate places insert—

““assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;”;

““dwelling-house” has the same meaning as in Part 1 of the Housing Act 1988;”;

““flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;”;

““long tenancy” means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;”;

““relevant social housing tenancy” means—

- (a) a flexible tenancy, or
- (b) an assured tenancy of a dwelling-house in England granted by a private registered provider of social housing, other than a long tenancy or a shared ownership lease;”;

““shared ownership lease” means a lease of a dwelling-house—

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

(7) In Schedule 1 (unregistered interests which override first registration) after paragraph 1 insert—

*“Relevant social housing tenancies*

1A A leasehold estate in land under a relevant social housing tenancy.”

(8) In Schedule 3 (unregistered interests which override registered dispositions) after paragraph 1 insert—

*“Relevant social housing tenancies*

1A A leasehold estate in land under a relevant social housing tenancy.”

## **158 Secure and assured tenancies: transfer of tenancy**

(1) This section applies if the tenants (“the relevant tenants”) under two or more tenancies of dwelling-houses in England (“the existing tenancies”) make a request in writing to the landlord under each existing tenancy asking the landlord to—

- (a) permit the relevant tenant or tenants under the existing tenancy to surrender it, and
- (b) grant a new tenancy of the dwelling-house let under the tenancy to another relevant tenant or other relevant tenants.

(2) The landlord must comply with the request if the following conditions are met.

(3) The first condition is that at least one of the existing tenancies is—

- (a) a secure tenancy that is not a flexible tenancy, or
- (b) an assured tenancy—
  - (i) which is not an assured shorthold tenancy, and
  - (ii) under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.

(4) The second condition is that at least one of the existing tenancies is—

- (a) a secure tenancy that is a flexible tenancy, or
- (b) an assured shorthold tenancy under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.

(5) The third condition is that the remaining existing tenancies (if any) fall within subsection (3) or (4).

(6) The fourth condition is that at least one of the existing tenancies to which subsection (3) applies was granted before the day on which this section came into force.

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- (7) The fifth condition is that none of the landlords under the existing tenancies has refused to comply with the request (and see further section 159).
- (8) Subsection (9) applies where a relevant tenant’s existing tenancy is—
  - (a) a secure tenancy that is not a flexible tenancy, or
  - (b) an assured tenancy that is not an assured shorthold tenancy.
- (9) The new tenancy granted to the relevant tenant pursuant to this section must be—
  - (a) a secure tenancy that is not a flexible tenancy, or
  - (b) an assured tenancy that is not an assured shorthold tenancy,
 according to the landlord’s capacity to grant a tenancy of either kind.
- (10) The Secretary of State may by regulations provide that this section does not apply in relation to an assured shorthold tenancy of a kind specified in the regulations.

### **159 Further provisions about transfer of tenancy under section 158**

- (1) A landlord may refuse to comply with a request under section 158 only on one or more of the grounds set out in Schedule 14 (and in that Schedule references to the new tenancy are to the tenancy that the landlord has been requested to grant under that section).
- (2) If the landlord refuses to comply with the request otherwise than on one of those grounds, the landlord is treated for the purposes of section 158 as not having refused to comply with the request.
- (3) A landlord may not rely on any of the grounds set out in Schedule 14 unless the landlord has, within the period of 42 days beginning with receipt of the relevant tenants’ request, given each of the tenants a notice specifying the ground and giving particulars of it.
- (4) The duty imposed on a landlord by section 158 is enforceable by injunction.
- (5) A county court has jurisdiction to entertain any proceedings brought pursuant to subsection (4).
- (6) In section 158, this section and Schedule 14—
  - (a) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985,
  - (b) “flexible tenancy” has the meaning given by section 107A of that Act,
  - (c) “assured tenancy” and “assured shorthold tenancy” have the same meaning as in Part 1 of the Housing Act 1988, and
  - (d) other expressions defined in the Housing Act 1985 or the Housing Act 1988 have the same meaning as in that Act (and, if they are defined in both Acts, have the same meaning as in the Housing Act 1985).
- (7) In section 160(1) of the Housing Act 1996 (cases where provisions about allocations do not apply), for the “or” at the end of paragraph (d) substitute—
  - “(da) is granted in response to a request under section 158 of the Localism Act 2011 (transfer of tenancy), or”.

## 160 Succession to secure tenancies

(1) Before section 87 of the Housing Act 1985 insert—

### “86A Persons qualified to succeed tenant: England

- (1) A person (“P”) is qualified to succeed the tenant under a secure tenancy of a dwelling-house in England if—
    - (a) P occupies the dwelling-house as P’s only or principal home at the time of the tenant’s death, and
    - (b) P is the tenant’s spouse or civil partner.
  - (2) A person (“P”) is qualified to succeed the tenant under a secure tenancy of a dwelling-house in England if—
    - (a) at the time of the tenant’s death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
    - (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
    - (c) P’s succession is in accordance with that term.
  - (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 88.
  - (4) In such a case, a person (“P”) is qualified to succeed the tenant if—
    - (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
    - (b) P’s succession is in accordance with that term.
  - (5) For the purposes of this section—
    - (a) a person who was living with the tenant as the tenant’s wife or husband is to be treated as the tenant’s spouse, and
    - (b) a person who was living with the tenant as if they were civil partners is to be treated as the tenant’s civil partner.
  - (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1) (b).
  - (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated (according to whether that one of them is of the opposite sex to, or of the same sex as, the tenant) as the tenant’s spouse or civil partner.”
- (2) In section 87 of that Act (persons qualified to succeed secure tenant)—
- (a) in the section heading at the end insert “: Wales”, and
  - (b) after “secure tenancy” insert “of a dwelling-house in Wales”.
- (3) Section 89 of that Act (succession to periodic tenancy) is amended as follows.
- (4) After subsection (1) insert—

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“(1A) Where there is a person qualified to succeed the tenant under section 86A, the tenancy vests by virtue of this section—

- (a) in that person, or
- (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.”

(5) In subsection (2) after “tenant” insert “under section 87”.

(6) The amendments made by this section do not apply in relation to a secure tenancy that—

- (a) was granted before the day on which this section comes into force, or
- (b) came into being by virtue of section 86 of the Housing Act 1985 (periodic tenancy arising on termination of fixed term) on the coming to an end of a secure tenancy within paragraph (a).

## **161 Succession to assured tenancies**

(1) Section 17 of the Housing Act 1988 (succession to assured periodic tenancy by spouse) is amended as follows.

(2) In the heading for “assured periodic tenancy by spouse” substitute “assured tenancy”.

(3) In subsection (1)—

- (a) at the beginning insert “Subject to subsection (1D),” and
- (b) omit paragraph (c).

(4) After that subsection insert—

“(1A) Subject to subsection (1D), in any case where—

- (a) there is an assured periodic tenancy of a dwelling-house in England under which—
    - (i) the landlord is a private registered provider of social housing, and
    - (ii) the tenant is a sole tenant,
  - (b) the tenant under the tenancy dies,
  - (c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
  - (d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
  - (e) there is a person whose succession is in accordance with that term,
- then, on the death, the tenancy vests by virtue of this section in that person (and, accordingly, does not devolve under the tenant’s will or intestacy).

(1B) Subject to subsection (1D), in any case where—

- (a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—
  - (i) the landlord is a private registered provider of social housing, and

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- (ii) the tenant is a sole tenant,
  - (b) the tenant under the tenancy dies, and
  - (c) immediately before the death, the tenant’s spouse or civil partner was occupying the dwelling-house as his or her only or principal home,then, on the death, the tenancy vests by virtue of this section in the spouse or civil partner (and, accordingly, does not devolve under the tenant’s will or intestacy).
- (1C) Subject to subsection (1D), in any case where—
  - (a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—
    - (i) the landlord is a private registered provider of social housing, and
    - (ii) the tenant is a sole tenant,
  - (b) the tenant under the tenancy dies,
  - (c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
  - (d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
  - (e) there is a person whose succession is in accordance with that term,then, on the death, the tenancy vests by virtue of this section in that person (and accordingly does not devolve under the tenant’s will or intestacy).
- (1D) Subsection (1), (1A), (1B) or (1C) does not apply if the tenant was himself a successor as defined in subsection (2) or subsection (3).
- (1E) In such a case, on the death, the tenancy vests by virtue of this section in a person (“P”) (and, accordingly, does not devolve under the tenant’s will or intestacy) if, and only if—
  - (a) (in a case within subsection (1)) the tenancy is of a dwelling-house in England under which the landlord is a private registered provider of social housing,
  - (b) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
  - (c) P’s succession is in accordance with that term.”
- (5) In subsection (5) after “(1)(b)” insert “or (1B)(c)”.
- (6) After subsection (5) insert—
  - “(6) If, on the death of the tenant, there is more than one person in whom the tenancy would otherwise vest by virtue of subsection (1A), (1C) or (1E), the tenancy vests in such one of them as may be agreed between them or, in default of agreement, as is determined by the county court.
- (7) This section does not apply to a fixed term assured tenancy that is a lease of a dwelling-house—
  - (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

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- (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”
- (7) The amendments made by this section do not apply in relation to an assured tenancy that—
  - (a) was granted before the day on which this section comes into force, or
  - (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

## **162 Secure and assured tenancies: recovery of possession after tenant’s death**

- (1) In section 90 of the Housing Act 1985 (devolution of fixed term secure tenancy) after subsection (4) insert—
  - “(5) The following provisions apply where a tenancy that was a secure tenancy of a dwelling-house in England—
    - (a) has been vested or otherwise disposed of in the course of the administration of the secure tenant’s estate, and
    - (b) has ceased to be a secure tenancy by virtue of this section.
  - (6) Subject as follows, the landlord may apply to the court for an order for possession of the dwelling-house let under the tenancy.
  - (7) The court may not entertain proceedings for an order for possession under this section unless—
    - (a) the landlord has served notice in writing on the tenant—
      - (i) stating that the landlord requires possession of the dwelling-house, and
      - (ii) specifying a date after which proceedings for an order for possession may be begun, and
    - (b) that date has passed without the tenant giving up possession of the dwelling-house.
  - (8) The date mentioned in subsection (7)(a)(ii) must fall after the end of the period of four weeks beginning with the date on which the notice is served on the tenant.
  - (9) On an application to the court for an order for possession under this section, the court must make such an order if it is satisfied that subsection (5) applies to the tenancy.
  - (10) The tenancy ends when the order is executed.”
- (2) In Part 3 of Schedule 2 to that Act (grounds on which court may order possession of dwelling-house let on secure tenancy if reasonable and if alternative accommodation is available) after Ground 15 insert—
  - “*Ground 15A*
  - The dwelling-house is in England, the accommodation afforded by it is more extensive than is reasonably required by the tenant and—



- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy) or 90 (devolution of term certain) in a case where the tenant was not the previous tenant's spouse or civil partner, and
- (b) notice of the proceedings for possession was served under section 83 (or, where no such notice was served, the proceedings for possession were begun) more than six months but less than twelve months after the relevant date.

For this purpose “the relevant date” is—

- (a) the date of the previous tenant's death, or
- (b) if the court so directs, the date on which, in the opinion of the court, the landlord (or, in the case of joint landlords, any one of them) became aware of the previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

- (a) the age of the tenant,
- (b) the period (if any) during which the tenant has occupied the dwelling-house as the tenant's only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.”

(3) In that Part of that Schedule, in Ground 16 (vesting of tenancy in member of previous tenant's family other than his or her spouse or civil partner)—

- (a) at the beginning of the first unnumbered paragraph for “The accommodation afforded by the dwelling-house” substitute “The dwelling-house is in Wales, the accommodation afforded by it”,
- (b) in the first unnumbered paragraph—
  - (i) in paragraph (a) after “tenancy)” insert “or 90 (devolution of term certain)”, and
  - (ii) in paragraph (b) for “the date of the previous tenant's death” substitute “the relevant date”, and
- (c) after the first unnumbered paragraph insert—
 

“For this purpose “the relevant date” is—

  - (a) the date of the previous tenant's death, or
  - (b) if the court so directs, the date on which, in the opinion of the court, the landlord (or, in the case of joint landlords, any one of them) became aware of the previous tenant's death.”

(4) In section 7 of the Housing Act 1988 (orders for possession of assured tenancies) after subsection (6) insert—

“(6A) In the case of a dwelling-house in England, subsection (6)(a) has effect as if it also referred to Ground 7 in Part 1 of Schedule 2 to this Act.”

(5) In Part 1 of Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies: grounds on which court must order possession) in Ground 7 (devolution of tenancy under will or intestacy)—

- (a) in the first unnumbered paragraph, after “tenancy)” insert “, or a fixed term tenancy of a dwelling-house in England,”,
- (b) in the second unnumbered paragraph—
  - (i) omit “periodic”, and
  - (ii) after “period” insert “or length of term”, and

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- (c) after that paragraph insert—
- “This ground does not apply to a fixed term tenancy that is a lease of a dwelling-house—
- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
  - (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”

### **163 Assured shorthold tenancy following demoted or family intervention tenancy**

- (1) In section 20B(2) of the Housing Act 1988 (demoted assured shorthold tenancy lasts for one year unless subsection (3) applies) after “subsection (3) applies” insert “, but see section 20C”.
- (2) After section 20B of the Housing Act 1988 insert—

#### **“20C Assured shorthold tenancies following demoted tenancies**

- (1) Subsection (2) applies if—
- (a) section 20B applies to an assured shorthold tenancy of a dwelling-house in England (“the demoted tenancy”),
  - (b) the landlord is a private registered provider of social housing,
  - (c) the demoted tenancy was created by an order under section 6A made after the coming into force of section 163(2) of the Localism Act 2011,
  - (d) the assured tenancy that was terminated by that order was an assured shorthold tenancy that, whether or not it was a fixed term tenancy when terminated by the order, was granted for a term certain of not less than two years,
  - (e) apart from subsection (2), the demoted tenancy would cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and
  - (f) the landlord has served a notice within subsection (3) on the tenant before the demoted tenancy ceases to be an assured shorthold tenancy by virtue of section 20B(2) or (4).
- (2) The demoted tenancy does not cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and at the time when it would otherwise cease to be an assured shorthold tenancy by virtue of section 20B(2) to (4)—
- (a) it becomes an assured shorthold tenancy which is a fixed term tenancy for a term certain, and
  - (b) section 20B ceases to apply to it.
- (3) The notice must—
- (a) state that, on ceasing to be a demoted assured shorthold tenancy, the tenancy will become an assured shorthold tenancy which is a fixed term tenancy for a term certain of the length specified in the notice,
  - (b) specify a period of at least two years as the length of the term of the tenancy, and
  - (c) set out the other express terms of the tenancy.

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- (4) Where an assured shorthold tenancy becomes a fixed term tenancy by virtue of subsection (2)—
- (a) the length of its term is that specified in the notice under subsection (3), and
  - (b) its other express terms are those set out in the notice.”
- (3) Before section 21 of the Housing Act 1988 insert—

**“20D Assured shorthold tenancies following family intervention tenancies**

- (1) An assured tenancy that arises by virtue of a notice under paragraph 12ZA(2) of Schedule 1 in respect of a family intervention tenancy is an assured shorthold tenancy if—
- (a) the landlord under the assured tenancy is a private registered provider of social housing,
  - (b) the dwelling-house is in England,
  - (c) the family intervention tenancy was granted to a person on the coming to an end of an assured shorthold tenancy under which the person was a tenant, and
  - (d) the notice states that the family intervention tenancy is to be regarded as an assured shorthold tenancy.
- (2) This section does not apply if the family intervention tenancy was granted before the coming into force of section 163(3) of the Localism Act 2011.”

**164 Assured shorthold tenancies: notice requirements**

- (1) In section 21 of the Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy) after subsection (1) insert—
- “(1A) Subsection (1B) applies to an assured shorthold tenancy of a dwelling-house in England if—
- (a) it is a fixed term tenancy for a term certain of not less than two years, and
  - (b) the landlord is a private registered provider of social housing.
- (1B) The court may not make an order for possession of the dwelling-house let on the tenancy unless the landlord has given to the tenant not less than six months’ notice in writing—
- (a) stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term tenancy, and
  - (b) informing the tenant of how to obtain help or advice about the notice and, in particular, of any obligation of the landlord to provide help or advice.”
- (2) The amendments made by this section do not apply in relation to an assured shorthold tenancy that—
- (a) was granted before the day on which this section comes into force, or

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- (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

### **165 Assured shorthold tenancies: rights to acquire**

- (1) Section 180 of the Housing and Regeneration Act 2008 (social housing: right to acquire) is amended as follows.
- (2) In subsection (2)(a) (conditions to be met in relation to tenancies) omit “an assured shorthold tenancy or”.
- (3) After subsection (2) insert—
- “(2A) The Secretary of State may by regulations provide that an assured shorthold tenancy of a description specified in the regulations is not a tenancy within subsection (2).”
- (4) The amendments made by this section do not apply in relation to an assured shorthold tenancy that—
- (a) was granted before the day on which this section comes into force, or
- (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

### **166 Repairing obligations in leases of seven years or more**

In section 13 of the Landlord and Tenant Act 1985 (leases to which the provisions about repairing obligations in section 11 of that Act apply) after subsection (1) insert—

- “(1A) Section 11 also applies to a lease of a dwelling-house in England granted on or after the day on which section 166 of the Localism Act 2011 came into force which is—
- (a) a secure tenancy for a fixed term of seven years or more granted by a person within section 80(1) of the Housing Act 1985 (secure tenancies: the landlord condition), or
- (b) an assured tenancy for a fixed term of seven years or more that—
- (i) is not a shared ownership lease, and
- (ii) is granted by a private registered provider of social housing.

(1B) In subsection (1A)—

“assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;

“secure tenancy” has the meaning given by section 79 of the Housing Act 1985; and

“shared ownership lease” means a lease—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or
- (b) under which the lessee (or the lessee’s personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house.”