



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 1

#### NEW HOMES IN ENGLAND

### CHAPTER 1

#### STARTER HOMES

#### **1 Purpose of this Chapter**

The purpose of this Chapter is to promote the supply of starter homes in England.

#### **2 What is a starter home?**

- (1) In this Chapter “starter home” means a building or part of a building that—
  - (a) is a new dwelling,
  - (b) is available for purchase by qualifying first-time buyers only,
  - (c) is to be sold at a discount of at least 20% of the market value,
  - (d) is to be sold for less than the price cap, and
  - (e) is subject to any restrictions on sale or letting specified in regulations made by the Secretary of State (for more about regulations under this paragraph, see section 3).
- (2) “New dwelling” means a building or part of a building that—
  - (a) has been constructed for use as a single dwelling and has not previously been occupied, or
  - (b) has been adapted for use as a single dwelling and has not been occupied since its adaptation.
- (3) “Qualifying first-time buyer” means an individual who—
  - (a) is a first-time buyer,

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- (b) is at least 23 years old but has not yet reached the age of 40, and
  - (c) meets any other criteria specified in regulations made by the Secretary of State (for example, relating to nationality).
- (4) “First-time buyer” has the meaning given by section 57AA(2) of the Finance Act 2003.
- (5) “Purchase”: the reference to a building or part of a building being available for purchase is to a freehold or a leasehold interest in the building or part being available for purchase.
- (6) The “price cap” is set out in the table.

<i>Location of starter home</i>	<i>Price cap</i>
Greater London	£450,000
Outside Greater London	£250,000

- (7) The Secretary of State may by regulations—
- (a) amend the definition of “first-time buyer”;
  - (b) disapply the age requirement in subsection (3)(b) in relation to specified categories of people;
  - (c) specify circumstances in which a dwelling may still be a starter home even if it is available for purchase by joint purchasers not all of whom meet the age requirement.
- (8) The Secretary of State may by regulations amend the price cap; and the regulations may provide for different price caps to apply—
- (a) for starter homes in different areas in Greater London;
  - (b) for starter homes in different areas outside Greater London.
- (9) Before making regulations under subsection (8) the Secretary of State must consult—
- (a) each local planning authority in England,
  - (b) the Mayor of London, and
  - (c) any other person the Secretary of State thinks appropriate.
- (10) Regulations under this section may amend this Chapter.

### **3 Power to require payments or discounts on resale (subject to tapering) etc**

- (1) The restrictions on sale that may be specified by regulations under section 2(1)(e) in relation to a dwelling that has been sold to a qualifying first-time buyer include, in particular, restrictions —
- (a) requiring a person who sells the dwelling within a specified period to make a payment to a specified person in respect of the starter homes discount, or
  - (b) prohibiting a person from selling the dwelling within a specified period unless the dwelling is sold to a qualifying first-time buyer at a discount.
- (2) Regulations made by virtue of subsection (1) must—
- (a) set out how the amount of the payment or discount is to be determined, and
  - (b) provide for reductions in the amount of the payment or discount according to the length of time since the dwelling was first sold to a qualifying first-time buyer.

- (3) The person specified in regulations under subsection (1)(a) may be the Secretary of State, a local planning authority in England or any other person.
- (4) Regulations under section 2(1)(e) may impose restrictions that require a person selling the dwelling to sell it subject to any restrictions to which he or she is subject.
- (5) Regulations under section 2(1)(e) may include provision about the legal mechanism by which any requirement is to be imposed.
- (6) The Secretary of State may by regulations make provision about the use of sums that are paid to a person in accordance with a requirement imposed by regulations made by virtue of subsection (1)(a) (including provision permitting or requiring the payment of sums into the Consolidated Fund).
- (7) In subsection (1)(a) “starter homes discount” means the discount mentioned in section 2(1)(c) or subsection (1)(b) above.

#### **4 General duty to promote supply of starter homes**

- (1) An English planning authority must carry out its relevant planning functions with a view to promoting the supply of starter homes in England.
- (2) A local planning authority in England must have regard to any guidance given by the Secretary of State in carrying out that duty.
- (3) “English planning authority” means—
  - (a) a local planning authority in England, or
  - (b) the Secretary of State when exercising a function relating to the grant of planning permission on an application in respect of land in England.
- (4) “Relevant planning functions” means—
  - (a) functions under Part 3 of the Town and Country Planning Act 1990, other than functions relating to the grant of permission in principle;
  - (b) functions under Part 8 of the Greater London Authority Act 1999;
  - (c) functions under Part 2 of the Planning and Compulsory Purchase Act 2004.
- (5) The Secretary of State may by regulations—
  - (a) amend the definition of “English planning authority” in subsection (3);
  - (b) amend the definition of “relevant planning functions” in subsection (4).

#### **5 Planning permission: provision of starter homes**

- (1) The Secretary of State may by regulations provide that an English planning authority may only grant planning permission for a residential development of a specified description if the starter homes requirement is met.
- (2) Where the Secretary of State makes regulations under this section, the regulations must give an English planning authority power to dispense with the condition requiring the starter homes requirement to be met where—
  - (a) an application is made for planning permission in respect of a rural exception site, and

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- (b) the application falls to be determined wholly or partly on the basis of a policy contained in a development plan for the provision of housing on rural exception sites.
- (3) “English planning authority” means—
  - (a) a local planning authority in England, or
  - (b) the Secretary of State when exercising a function relating to the grant of planning permission on an application in respect of land in England.
- (4) “The starter homes requirement” means a requirement, specified in the regulations, relating to the provision of starter homes in England.
- (5) Regulations under this section may, for example, provide that an English planning authority may grant planning permission only if a person has entered into a planning obligation to provide a certain number of starter homes or to pay a sum to be used by the authority for providing starter homes.
- (6) The regulations may confer discretions on an English planning authority.
- (7) The regulations may make different provision for different areas.
- (8) In section 70 of the Town and Country Planning Act 1990 (determination of applications: general considerations), for subsection (3) substitute—
  - “(3) Subsection (1) has effect subject to the following—
    - (a) section 65 and the following provisions of this Act;
    - (b) section 15 of the Health Services Act 1976;
    - (c) sections 66, 67, 72 and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
    - (d) regulations under section 5 of the Housing and Planning Act 2016 (starter homes requirements).”

## **6 Monitoring**

- (1) A local planning authority in England must prepare reports containing information about the carrying out of its functions in relation to starter homes.
- (2) The Secretary of State may by regulations make provision about reports under this section, including—
  - (a) provision about their form and content;
  - (b) provision about their timing;
  - (c) provision requiring them to be combined with reports under section 35 of the Planning and Compulsory Purchase Act 2004.
- (3) The regulations may require a report to contain information about applications to which regulations under section 5 apply and details of how those applications have been dealt with.
- (4) An authority must make its reports under this section available to the public.

## **7 Compliance directions**

- (1) The Secretary of State may make a compliance direction if satisfied that—

- (a) a local planning authority has failed to carry out its functions in relation to starter homes or has failed to carry them out adequately, and
  - (b) a policy contained in a local development document for the authority is incompatible with those functions.
- (2) A “compliance direction” is a direction that no regard is to be had to the policy for the purposes of any determination to be made under the planning Acts.
- (3) A compliance direction remains in force until revoked by a further direction given by the Secretary of State.
- (4) A direction under this section must include the Secretary of State’s reasons for making it.
- (5) The Secretary of State must publish any direction under this section and give a copy to the local planning authority.

## **8 Interpretation of this Chapter**

In this Chapter—

“development” has the meaning given by section 336 of the Town and Country Planning Act 1990;

“functions in relation to starter homes”, in relation to a local planning authority, means the authority’s functions under—

- (a) section 4, and
- (b) regulations under section 5;

“local development document” is to be read in accordance with sections 17 and 18(3) of the Planning and Compulsory Purchase Act 2004;

“local planning authority” means a person who is a local planning authority for the purposes of any provision of Part 3 of the Town and Country Planning Act 1990;

“the planning Acts” has the meaning given by section 117(4) of the Planning and Compulsory Purchase Act 2004;

“planning obligation” means a planning obligation under section 106 of the Town and Country Planning Act 1990;

“planning permission” has the meaning given by section 336 of the Town and Country Planning Act 1990;

“residential development” means a development that includes at least one dwelling;

“starter home” has the meaning given by section 2.

## **CHAPTER 2**

### **SELF-BUILD AND CUSTOM HOUSEBUILDING**

## **9 Definitions**

- (1) In section 1 of the Self-build and Custom Housebuilding Act 2015 (register of persons seeking to acquire land), before subsection (1) insert—

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“(A1) In this Act “self-build and custom housebuilding” means the building or completion by—

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals.

(A2) But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”

(2) In subsection (1) of that section—

- (a) omit “(including bodies corporate that exercise functions on behalf of associations of individuals)”;
- (b) for “in order to build houses for those individuals to occupy as homes” substitute “for their own self-build and custom housebuilding”.

(3) After subsection (6) of that section insert—

“(6A) In this section—

“association of individuals” includes a body corporate that exercises functions on behalf of an association of individuals;

“completion” does not include anything that falls outside the definition of “building operations” in section 55(1A) of the Town and Country Planning Act 1990;

“home”, in relation to an individual, means the individual’s sole or main residence.”

(4) In section 5 of that Act (interpretation)—

(a) at the appropriate place insert—

““self-build and custom housebuilding” has the meaning given by section 1.”;

(b) for the definition of “serviced plot of land” substitute—

““serviced plot of land” means a plot of land that—

- (a) has access to a public highway and has connections for electricity, water and waste water, or
- (b) can be provided with those things in specified circumstances or within a specified period.”;

(c) at the end of that section (the existing text of which becomes subsection (1)) insert—

“(2) Regulations may amend the definition of “serviced plot of land” by adding further services to those mentioned in paragraph (a).”

## 10 Duty to grant planning permission etc

(1) After section 2 of the Self-build and Custom Housebuilding Act 2015 insert—

## **“2A Duty to grant planning permission etc**

- (1) This section applies to an authority that is both a relevant authority and a local planning authority within the meaning of the Town and Country Planning Act 1990 (“the 1990 Act”).
- (2) An authority to which this section applies must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority’s area arising in each base period.
- (3) Regulations must specify the time allowed for compliance with the duty under subsection (2) in relation to any base period.
- (4) The first base period, in relation to an authority, is the period—
  - (a) beginning with the day on which the register under section 1 kept by the authority is established, and
  - (b) ending with the day before the day on which section 10 of the Housing and Planning Act 2016 comes into force.

Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period.

- (5) In this section “development permission” means planning permission or permission in principle (within the meaning of the 1990 Act).
- (6) For the purposes of this section—
  - (a) the demand for self-build and custom housebuilding arising in an authority’s area in a base period is the demand as evidenced by the number of entries added during that period to the register under section 1 kept by the authority;
  - (b) an authority gives development permission if such permission is granted—
    - (i) by the authority,
    - (ii) by the Secretary of State or the Mayor of London on an application made to the authority, or
    - (iii) (in the case of permission in principle) by a development order, under section 59A(1)(a) of the 1990 Act, in relation to land allocated for development in a document made, maintained or adopted by the authority;
  - (c) development permission is “suitable” if it is permission in respect of development that could include self-build and custom housebuilding.
- (7) A grant of development permission in relation to a particular plot of land may not be taken into account in relation to more than one base period in determining whether the duty in this section is discharged.
- (8) No account is to be taken for the purposes of this section of development permission granted before the start of the first base period.
- (9) Regulations under subsection (3)—
  - (a) may make different provision for different authorities or descriptions of authority;

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- (b) may make different provision for different proportions of the demand for self-build and custom housebuilding arising in a particular base period.”
- (2) In section 3 of that Act (guidance), after subsection (2) insert—
  - “(3) An authority that is subject to the duty in section 2A must have regard to any guidance issued by the Secretary of State in relation to that duty.”
- (3) In relation to entries made on the register under section 1 of that Act before the commencement of this section, any reference to self-build and custom housebuilding in section 2A of that Act (inserted by subsection (1) above) is to be read as if, in section 1 of that Act (as amended by section 9 above)—
  - (a) the words “or completion” in subsection (A1) were omitted, and
  - (b) the definitions of “completion” and “home” in subsection (6A) were omitted.

## 11 Exemption from duty

After section 2A of the Self-build and Custom Housebuilding Act 2015 (inserted by section 10 above) insert—

### “2B Exemption from duty in section 2A

- (1) If an authority applies for exemption to the Secretary of State in accordance with regulations, the Secretary of State may direct that the authority is not subject to the duty in section 2A.
- (2) The regulations may specify the cases or circumstances in which an authority may apply for exemption.
- (3) Regulations may make further provision about applications under subsection (1), and may in particular—
  - (a) require an application to be supported by specified information and by any further information that the Secretary of State requires the authority to provide;
  - (b) require an authority that is granted exemption to notify persons on the register kept under section 1.”

## 12 Further and consequential amendments

- (1) In the Schedule to the Self-build and Custom Housebuilding Act 2015 (registers under section 1), in paragraph 3 (eligibility)—
  - (a) after sub-paragraph (2) insert—
    - “(2A) Regulations relating to the matters set out in sub-paragraph (2) may provide for eligibility to be determined by reference to criteria set by a relevant authority.”;
  - (b) at the end insert—
    - “(4) The regulations may provide—
      - (a) that persons who fail to meet particular conditions of eligibility, but who meet the other conditions specified, must be entered on a separate part of the register;



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- (b) that the duty in section 2A does not apply in relation to such persons.”
- (2) In paragraph 6 of that Schedule (fees)—
  - (a) in sub-paragraph (1), for “section 1” substitute “sections 1 and 2A”;
  - (b) in sub-paragraph (2)(b), after “fixing of fees by” insert “the Secretary of State or”;
  - (c) after sub-paragraph (2) insert—
    - “(3) The regulations may specify circumstances in which no fee is to be paid.”
- (3) In section 4(1) of that Act (regulations subject to affirmative resolution procedure)—
  - (a) in paragraph (b) omit “or”;
  - (b) after that paragraph insert—
    - “(ba) section 2A(3),
    - (bb) section 5(2), or”.
- (4) In section 4(2) of that Act (regulations subject to negative resolution procedure)—
  - (a) before paragraph (a) insert—
    - “(za) section 2B,”;
  - (b) in paragraph (a), for “section 5” substitute “section 5(1)”.