

1987 No. 1732

HOUSING, ENGLAND AND WALES

The Housing (Extension of Right to Buy) Order 1987

<i>Made</i> - - - -	<i>30th September 1987</i>
<i>Laid before Parliament</i>	<i>2nd October 1987</i>
<i>Coming into force</i>	<i>23rd October 1987</i>

The Secretary of State, in exercise of the powers conferred on him by section 171 of the Housing Act 1985(a) and of all other powers enabling him in that behalf, hereby makes the following Order —

Citation and commencement

1. This Order may be cited as the Housing (Extension of Right to Buy) Order 1987 and shall come into force on 23rd October 1987.

Interpretation

2. In this Order, unless the contrary intention appears, a reference to a numbered section, Part or Schedule, without more, is a reference to the section, Part or Schedule bearing that number in the Housing Act 1985.

Extension of the right to buy

3.—(1) Where there are in a dwelling-house let on a secure tenancy one or more interests all of which are interests to which this article applies, and the dwelling-house is a house, Part V (the right to buy) has effect with the modifications specified in the Schedule to this Order being modifications to enable a secure tenant to acquire the freehold of the dwelling-house.

(2) This article applies to an interest held by —

- a local authority,
- a new town corporation,
- an urban development corporation,
- the Development Board for Rural Wales,
- the Housing Corporation, or
- a registered housing association, other than one excepted from the right to buy by Schedule 5, paragraph 1 (charities), 2 (co-operatives) or 3 (associations which have not received grant),

which is immediately superior to the interest of the landlord or to another interest to which this article applies.

Consequential, supplementary and transitional provisions

4.—(1) In a case where a secure tenant, at a time when this Order did not apply, has served, in relation to the dwelling-house, a notice under section 122(1) (tenant's notice claiming to exercise right to buy), this Order does not apply while that notice remains in force.

(2) Where, in pursuance of Part V as modified by this Order, a secure tenant has served a notice under section 122(1) (notice claiming to exercise right to buy) then in the event of the interest of the landlord, an intermediate landlord or the freeholder in the dwelling-house passing to a person not being an authority or body to which article 3(2) applies, the freeholder shall as soon as practicable serve on the tenant a notice in writing telling him that he is no longer entitled to acquire the freehold of the dwelling-house.

30th September 1987

Nicholas Ridley
One of Her Majesty's Principal Secretaries of State

SCHEDULE

Article 3

MODIFICATIONS OF PART V

1. In section 118 (the right to buy), for subsection (1) substitute –
“(1) A secure tenant has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part, to acquire the freehold of the dwelling-house.”.
2. In section 122 (tenant's notice claiming to exercise right to buy), omit subsection (3).
3. After section 122 (tenant's notice claiming to exercise right to buy) insert –
“122A—(1) Where a notice under section 122(1) (notice claiming to exercise right to buy) is served by the tenant, the landlord shall, as soon as practicable –
 - (a) serve a copy of the notice on the authority or body which is its landlord in relation to the dwelling-house, and
 - (b) serve on the tenant a notice in writing that this has been done and of the name and address of that authority or body.

(2) If the authority or body referred to in subsection (1)(a) is an intermediate landlord, it shall in turn serve a copy of the notice on the authority or body which is its immediate landlord in relation to the dwelling-house (and so on, if that authority or body is also an intermediate landlord).

(3) The landlord and each of the intermediate landlords (if any) shall, at the same time as it serves on its landlord the copy of the tenant's notice, notify that authority or body whether to its knowledge there are any reasons for denying the tenant's right to buy and, if there are, state those reasons.

(4) When an intermediate landlord, in accordance with subsection (3), notifies its immediate landlord whether there are any reasons for denying the tenant's right to buy, it shall send with that notification the notification or notifications under that subsection which it has received from the landlord or from any other intermediate landlord or landlords.

(5) An authority or body which serves a copy of the tenant's notice on another authority or body in accordance with subsection (2) shall at the same time notify the landlord and the tenant that this has been done and of the name and address of the other authority or body.”.
4. In section 123 (claim to share right to buy with members of family), in paragraph (b) of subsection (2), for the reference to the landlord substitute a reference to the freeholder.
5. For section 124 (landlord's notice admitting or denying right to buy) substitute –

“124.—(1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the tenant, the freeholder shall, unless the notice has been withdrawn, serve on the tenant, within eight weeks of service under section 122A on the freeholder of the copy of the tenant’s notice, a written notice either –

- (a) admitting his right, or
- (b) denying it and stating the reasons why in its opinion the tenant does not have the right to buy.

(2) The freeholder shall, as soon as practicable, serve a copy of the notice on the landlord and on each of the intermediate landlords (if any).”.

6. After section 124 insert –

“Withdrawal of tenant’s notice 124A—(1) If the tenant wishes to withdraw a notice served under section 122(1) (notice claiming to exercise right to buy) before he has received the freeholder’s notice under section 124(1) (notice admitting or denying right to buy), he may do so by notice in writing served on the landlord.

(2) Where the landlord receives the tenant’s notice of withdrawal under subsection (1) after it has served a copy of the tenant’s notice under section 122(1) (notice claiming to exercise right to buy) on its landlord, it shall, as soon as practicable, serve on its landlord a copy of the notice of withdrawal.

(3) An intermediate landlord shall, in turn, similarly serve a copy of the tenant’s notice of withdrawal on its immediate landlord.

(4) If the tenant wishes to withdraw his notice claiming to exercise the right to buy after he has received the freeholder’s notice admitting or denying the right, he may do so by a notice in writing served on the freeholder.

(5) Where the tenant serves a notice of withdrawal on the freeholder, the freeholder shall, as soon as practicable, inform the landlord and the intermediate landlords (if any) of this fact.”.

7. In section 125 (landlord’s notice of purchase price and other matters) –

(a) for subsection (1) substitute –

“(1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the freeholder’s admission or otherwise), the freeholder shall within twelve weeks serve on the tenant a notice complying with this section.”;

(b) in subsection (2) –

- (i) for the reference to the landlord substitute a reference to the freeholder, and
- (ii) omit the words “or, as the case may be, the lease granted to him”;

(c) in subsection (3) –

- (i) for the reference to the landlord substitute a reference to the freeholder, and
- (ii) omit the words “or grant”;

(d) in subsection (4)(a) –

- (i) for the words “the landlord” substitute the words “the freeholder, an intermediate landlord or the landlord”,
- (ii) omit the words “, or (b) improvement contributions.”, and
- (iii) omit the words “or 125B (improvement contributions)”;

(e) in subsection (4A)(b) –

- (i) for the reference to the landlord substitute a reference to the freeholder, and
- (ii) omit the words “or lease”; and

(f) in subsection (5) –

- (i) at the end of paragraph (b) add the word “and”,
- (ii) in paragraph (c), for the words “landlord’s notices” substitute the words “freeholder’s notices”, and
- (iii) omit the word “and” at the end of paragraph (c) and omit paragraph (d).

8. In section 125A(c) (estimates and information about service charges) –

(a) in subsection (1) –

- (i) for the references to landlord substitute references to freeholder, and

(a) Section 125(4) was substituted by section 4(1) of the Housing and Planning Act 1986 (c.63). (b) Section 125(4A) was inserted by paragraph 3 of Schedule 5 to the Housing and Planning Act 1986. (c) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.

- (ii) omit the words “(excluding, in the case of a flat, charges to which subsection (2) applies)”;
 - (b) omit subsections (2) and (3).
- 9. Omit section 125B(a) (estimates and information about improvement contributions).**
- 10. In section 125C(a) (reference period for purpose of s.125A) –**
- (a) in subsection (1) –
 - (i) omit the words “or 125B”,
 - (ii) in paragraph (a), for the reference to the landlord substitute a reference to the freeholder and omit the words “or the lease granted”, and
 - (iii) in paragraph (b), omit the words “or lease” and the words “or improvement contribution”; and
 - (b) in subsection (2), omit the words “or the lease granted”.
- 11. In section 126 (purchase price) –**
- (a) in subsection (1), omit the words “or grant”; and
 - (b) omit subsection (2).
- 12. In section 127 (value of dwelling-house) –**
- (a) in subsection (1) –
 - (i) for paragraph (a) substitute –
“(a) on the assumptions stated in subsection (2),”, and
 - (ii) in paragraph (c)(b), omit the words “or improvement contributions” and for the words “landlord’s notice” substitute the words “freeholder’s notice”;
 - (b) in subsection (2), omit the words “For a conveyance”; and
 - (c) omit subsection (3).
- 13.—(1) In section 128 (determination of value by district valuer) –**
- (a) in subsections (2) to (5), for references to landlord, other than the third reference in subsection (2), substitute references to freeholder; and
 - (b) in subsection (2), for the third reference to landlord substitute the words “freeholder, an intermediate landlord or the landlord”.
- (2) In section 129(c) (discount), in subsection (2), in paragraph (a) omit the words “in the case of a house”, and omit paragraph (6).
- (3) In section 130 (reduction of discount where previous discount given) –
- (a) in subsection (2), in paragraph (6), after the words “Schedule 8” insert “to this Act without taking into account the modifications made by the Housing (Extension of Right to Buy) Order 1987”; and
 - (b) in subsection (3) in paragraph (a), after the words “right to buy” insert “(whether or not taking into account the modifications made by the Housing (Extension of Right to Buy) Order 1987)”.
- 14. In section 132 (the right to a mortgage) for subsection (1) substitute –**
- “(1) A secure tenant who has the right to buy has the right, subject to the following provisions of this Part, to have the whole or part of the aggregate amount mentioned in section 133(1) advanced to him, on the security of a first mortgage of the dwelling-house, by the freeholder or if the freeholder is a housing association by the Housing Corporation; and in this Act that right is referred to as “the right to a mortgage.”.
- 15. In section 133 (the amount to be secured) –**
- (a) in subsection (1) –
 - (i) omit the words “leave outstanding, or” and omit the comma after the word “him”, and
 - (ii) for the references to the landlord substitute references to the freeholder;
 - (b) in subsection (2), omit the words “leave outstanding or”;
 - (c) for subsection (4) substitute –

(a) Sections 125B and 125C were inserted by section 4(2) of the Housing and Planning Act 1986. (b) Section 127(1)(c) was inserted by section 4(3) of the Housing and Planning Act 1986. (c) Section 129 was amended by section 2(1) of the Housing and Planning Act 1986.

“(4) Where the amount which a secure tenant is entitled to have advanced to him by the freeholder on the security of the dwelling-house is reduced by the limit imposed by this section, the freeholder may, if it thinks fit and the tenant agrees, treat him as entitled to have advanced on that security such amount exceeding the limit, but not exceeding the aggregate mentioned in subsection (1), as the freeholder may determine.”; and

(d) in subsection (5), omit the words “leave outstanding or”.

16. In section 134 (tenant’s notice claiming to exercise right to a mortgage), throughout for references to the landlord substitute references to the freeholder.

17. In section 135 (landlord’s notice of amount and terms of mortgage) –

(a) in subsections (1) and (4), for references to the landlord substitute references to the freeholder; and

(b) in subsection (1), in paragraph (a), omit the words “leave outstanding or”; and

(c) omit subsection (3).

18. In section 136 (change of secure tenant after notice claiming right to buy) –

(a) in subsections (2), (4) and (5), for references to the landlord substitute references to the freeholder; and

(b) after subsection (1), insert –

“(1A) On becoming aware of the change of secure tenant the landlord shall forthwith notify its landlord in writing of this fact.

(1B) An intermediate landlord so notified shall, in turn, similarly notify its immediate landlord.”.

19. In section 137(a) (change of landlord after notice claiming right to buy or right to a mortgage) –

(a) for subsection (1) substitute –

“(1) Where, after the tenant has served a notice –

(a) under section 122(1) (notice claiming to exercise right to buy), or

(b) under section 134(1) (notice claiming to exercise right to a mortgage),

the interest of the landlord, an intermediate landlord or the freeholder in the dwelling-house passes from that authority or body to another person, or the interest comes to an end –

(i) the landlord, intermediate landlord or freeholder, as the case may be, shall forthwith notify its tenant of the change and the landlord and intermediate landlord shall similarly notify its landlord,

(ii) an intermediate landlord so notified by its tenant shall, in turn, similarly notify its immediate landlord or, if so notified by its landlord, shall similarly notify its tenant, and

(iii) all parties shall be in the same position as if the change had occurred before the notice under section 122(1) or section 134(1), as the case may be, was served and all other notices served had been served by or on the appropriate parties and all steps had been taken by them.”; and

(b) in subsection (2), in paragraph (b), for the reference to the landlord substitute a reference to the freeholder.

20. In section 138 (duty of landlord to convey freehold) –

(a) for subsection (1) substitute –

“(1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant and to the amount to be advanced on the security of the dwelling-house have been agreed or determined, the freeholder shall make to the tenant a grant of the dwelling-house for an estate in fee simple absolute, in accordance with the following provisions of this Part.”; and

(b) in subsections (2) and (3), for the references to the landlord substitute references to the freeholder.

21. After section 138 insert –

“138A.—(1) On completion the freeholder shall pay –

(a) to the landlord and to an intermediate landlord (if any), and

(a) Section 137 was amended by paragraph 4 of Schedule 5 to the Housing and Planning Act 1986.

(b) to the rent owner of a rentcharge charged on or issuing out of the lease of the landlord or an intermediate landlord,
an amount calculated in accordance with the formula –

$$A = \frac{R}{V} \times P$$

where –

A is the amount payable to the landlord, intermediate landlord or rent owner;

R is the amount which, under this section, is to be taken to be the value immediately before completion of the lease of the landlord or intermediate landlord (as the case may be) or of the rentcharge charged on or issuing out of such a lease;

P is the price payable for the dwelling-house by the tenant; and

V is the amount which is the sum of the values, immediately before completion, of the interests in the dwelling-house of –

the landlord,

intermediate landlords (if any),

rent owners as mentioned in subsection (1)(b) (if any), and

the freeholder.

(2) Where the whole or any part of any discount obtained by the tenant is recovered by the freeholder (whether by the receipt of a payment determined by reference to the discount or by a reduction so determined of any consideration given by the freeholder or in any other way), the freeholder shall pay to the authority or body which immediately before completion was the landlord or an intermediate landlord and to the rent owner of a rentcharge which was then charged on or issued out of the lease of any such authority or body, an amount calculated in accordance with the formula –

$$A = \frac{R}{V} \times D$$

where –

A is the amount payable to the authority or body or rent owner;

R is the amount which, under this section, is to be taken to be the value immediately before completion of the lease of the authority or body or of the rentcharge charged on or issuing out of such a lease;

D is the amount of the discount recovered by the freeholder; and

V is the amount which is the sum of the values, immediately before completion, of the interests in the dwelling-house of –

the landlord

intermediate landlords (if any),

rent owners as mentioned in subsection (1)(b) (if any), and

the freeholder.

(3) For the purposes of this section –

(a) the value of an interest immediately before completion shall be taken to be the price which, at that time, it would realise if sold on the open market, free from any mortgage, by a willing vendor on the assumption that this Part did not apply, and

(b) where a lease or a rentcharge includes property other than the dwelling-house the value of the interest shall be taken to be that part of the value which is attributable to the dwelling-house.

(4) No payment shall be made under subsection (1) or (2) in relation to a lease of the dwelling-house if it is (or was) a lease for a term certain and the residue of the term unexpired immediately before completion is (or was) a period of less than twelve months or if it is (or was) a periodic tenancy.

(5) In this section “rentcharge” and “rent owner” have the same respective meanings as in the Rentcharges Act 1977(a).”.

22. In section 139 (terms and effect of conveyance and mortgage) –

(a) in subsection (1), omit the words “a grant of a lease so executed shall conform with Parts I and III of that Schedule;”;

(a) 1977 c.30.

- (b) after subsection (1) insert –

“(1A) The freeholder shall –

(a) execute the conveyance on its own behalf and in the names of the landlord and the intermediate landlord or landlords (if any) and it shall be binding on those authorities or bodies, and

(b) secure that the conveyance states that it is a conveyance to which this subsection applies”; and

- (c) for subsection (2) substitute –

“(2) The secure tenancy, the lease of the landlord and the lease of each of the intermediate landlords (if any), in so far as any such lease relates to the dwelling-house, come to an end and are extinguished on the grant to the tenant of an estate in fee simple in pursuance of the right to buy; and if there is then a subtenancy deriving out of the secure tenancy section 139 of the Law of Property Act 1925(a) (effect of extinguishment of reversion) applies as on a merger or surrender.”.

23. In section 140(b) (freeholder’s first notice to complete) –

(a) throughout for references to landlord substitute references to freeholder; and

(b) in subsection (5), omit the words “left outstanding or”.

24. In section 141 (freeholder’s second notice to complete) and section 142 (when tenant is entitled to defer completion), for references throughout to landlord substitute references to freeholder.

25. Omit sections 143 to 153 and Schedules 8 and 9 (the right to a shared ownership lease).

26. In section 154 (registration of title) –

(a) for subsection (1) substitute –

“(1) Where the freeholder’s title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925(c) (compulsory registration of title) applies in relation to the conveyance of the freehold in pursuance of this Part whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration).”;

(b) in subsection (2), for references to the landlord substitute references to the freeholder and omit the words “or make the grant” and the words “or grant”;

(c) omit subsection (3);

(d) in subsections (4) and (5), for the references to the landlord substitute references to the freeholder;

(e) after subsection (5) insert –

“(5A) Where the lease of the landlord or of any intermediate landlord is registered, the freeholder shall use his best endeavours to obtain (and if obtained shall produce to the Chief Land Registrar) that lease and its appropriate land or charge certificate.”; and

(f) omit subsection (6).

27. In section 155(d) (repayment of discount on early disposal) –

(a) in subsection (1), for the words from the beginning to “no discount” substitute the words “A conveyance of the freehold in pursuance of this Part shall contain (unless there is no discount)”;

(b) in subsection (2) –

(i) omit the words “In the case of a conveyance or grant in pursuance of the right to buy,”,

(ii) for the reference to the landlord substitute a reference to the freeholder, and

(iii) omit the words “or grant” in the remaining place in which those words occur; and

(c) omit subsection (3).

(a) 1925 c.20. (b) Section 140 was amended by paragraph 5(1) of Schedule 5 to the Housing and Planning Act 1986. (c) 1925 c.21. (d) Section 155 was amended by section 2(3) of the Housing and Planning Act 1986.

28. In section 156 (liability to repay is a charge on the premises) –
- (a) in subsection (2) –
 - (i) for paragraph (a) substitute –

“(a) advanced to the tenant by the freeholder for the purpose of enabling him to exercise the right to buy, or”, and
 - (ii) for the reference to the landlord substitute a reference to the freeholder; and
 - (b) in subsection (3A)(a) omit the words “or grant” and the words “to authorise a forfeiture or”.
29. In section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) –
- (a) in subsections (1), (2) and (4), for the references to the landlord substitute references to the freeholder;
 - (b) in subsection (1), omit the words “or grant” in both places in which those words occur; and
 - (c) in subsection (4) –
 - (i) omit the words “or grant”, and
 - (ii) in paragraph (a), omit the words “or as the case may be surrender the lease”.
30. In section 158 (consideration for reconveyance under s.157) –
- (a) in subsection (1) –
 - (i) omit the words “or surrender”, and
 - (ii) for the reference to the landlord substitute a reference to the freeholder;
 - (b) in subsection (2) –
 - (i) omit the words “or surrendered”, and
 - (ii) omit the word “and” at the end of paragraph (a) and omit paragraph (b);
 - (c) in subsection (3), for the reference to the landlord substitute a reference to the freeholder; and
 - (d) in subsection (4)(b), omit the words “or surrender”.
31. In section 159 (relevant disposals), in subsection (1)(a) omit the words “or an assignment of the lease”.
32. In section 160 (exempted disposals), in subsection (1)(a) omit the words “or an assignment of the lease”.
33. In section 164 (Secretary of State’s general power to intervene) –
- (a) in subsection (1) –
 - (i) after the words “particular landlord” insert the words “intermediate landlord or freeholder”,
 - (ii) after the words “description of landlords” insert the words “intermediate landlords or freeholders”, and
 - (iii) omit the words “or the right to be granted a shared ownership lease”;
 - (b) in subsection (2), after the words “landlord or landlords” insert the words “, intermediate landlord or intermediate landlords or freeholder or freeholders”;
 - (c) for subsection (4) substitute –

“(4) Where a notice under this section has been given to a landlord or landlords, intermediate landlord or intermediate landlords or freeholder or freeholders, no step taken by any such authority or body while the notice is in force or before it was given has any effect in relation to the exercise by a secure tenant of the right to buy or the right to a mortgage, except in so far as the notice otherwise provides.”;
 - (d) in subsection (5) –
 - (i) for the words “the landlord or landlords” substitute the words “the landlord or landlords, intermediate landlord or intermediate landlords or freeholder or freeholders”,
 - (ii) after the words “the right to buy” insert the word “and” and omit the words “and the right to be granted a shared ownership lease”, and
 - (iii) for the words “the landlord” in the second place in which those words occur substitute the words “the landlord, intermediate landlord or freeholder”; and
 - (e) in subsection (6) for both of the references to landlord substitute references to freeholder.

(a) Section 156(3A) was inserted by paragraph 1(2) of Schedule 5 to the Housing and Planning Act 1986. (b) Section 158(4) was inserted by paragraph 1(3) of Schedule 5 to the Housing and Planning Act 1986.

34. In section 165 (vesting orders for purposes of s.164) –

- (a) in subsection (1) –
 - (i) omit the words “or granting a lease”, and
 - (ii) for the reference to the landlord substitute a reference to the freeholder;
- (b) in subsection (2) –
 - (i) omit the words “or grant”, and
 - (ii) for the words “the landlord and its successors in title” substitute the words “the freeholder, the intermediate landlords (if any) and the landlord and its or their successors in title”;
- (c) in subsection (3) –
 - (i) for the words “the landlord’s title” substitute the words “the freeholder’s title”, and
 - (ii) omit the words “or grant made”;
- (d) in subsection (4), in paragraph (a), omit the words “or as the case may require a good leasehold title”;
- (e) in subsection (5) –
 - (i) for the words “the landlord’s title” substitute the words “the title of the freeholder, an intermediate landlord or the landlord”, and
 - (ii) omit the words “or the right to be granted a shared ownership lease”; and
- (f) in subsection (6), omit the words “from landlord”.

35. In section 166 (other provisions supplementary to s.164) –

- (a) in subsection (1), for the words “a particular landlord” substitute the words “a particular freeholder, intermediate landlord or landlord”;
- (b) in subsection (2), for the words “the landlord” –
 - (i) where the words first occur substitute the words “the freeholder, intermediate landlord or landlord”, and
 - (ii) where those words occur for the second time substitute the words “that authority or body”;
- (c) in subsection (3) –
 - (i) for the words “a landlord” substitute the words “a freeholder, intermediate landlord or landlord”, and
 - (ii) for the words “the landlord” in both places where those words occur substitute the words “that authority or body”;
- (d) in subsection (4) –
 - (i) for paragraph (b) substitute –
 - “(b) certify a sum as representing those costs and the freeholder, intermediate landlord or landlord by which those costs (or such proportion thereof as he may specify) are to be borne;”, and
 - (ii) for the words “the landlord” substitute the words “the authority or body concerned”;
- (e) in subsection (5), for the words “the landlord” –
 - (i) where those words first occur substitute the words “the freeholder, intermediate landlord or landlord”, and
 - (ii) where those words occur for the second time substitute the words “that authority or body”; and
- (f) in subsection (6), for the words “references to a landlord” substitute the words “references to a freeholder”.

36. After section 166 (other provisions supplementary to s.164) insert –

“166A. The Secretary of State, on giving to a freeholder, intermediate landlord or landlord –

- (a) a notice under section 164 (notice of intention to intervene), or
- (b) a further notice under section 166 (notice withdrawing previous notice),

shall, as soon as practicable, send a copy of the notice to any other authority or body which is, to his knowledge, a freeholder, intermediate landlord or landlord of any dwelling-house affected by the notice.”.

37. In section 167 (power to give directions as to covenants and conditions), in subsection (1) –

- (a) omit the words "or grants" in both places where those words occur,
- (b) at the end of paragraph (a), omit the word "or" and omit paragraph (b), and
- (c) for the references to landlords substitute references to freeholders.

38. In section 168 (effect of direction under s.167 on existing covenants and conditions) –

- (a) in subsection (1), in paragraphs (a) and (b), omit the words "or grant";
- (b) in subsection (3) –
 - (i) for the reference to the landlord substitute a reference to the freeholder, and
 - (ii) omit the words "or grant"; and
- (c) in subsection (4), for the references to the landlord substitute references to the freeholder.

39. In section 169 (power to obtain information, etc.) –

- (a) in subsection (1), for the words "a landlord" substitute the words "a freeholder, intermediate landlord or landlord";
- (b) in subsection (2), for the words "the landlord" –
 - (i) where those words first occur substitute the words "the freeholder, intermediate landlord or landlord", and
 - (ii) where those words occur for the second time substitute the words "that authority or body"; and
- (c) in subsection (3) –
 - (i) for the references to a landlord substitute references to a freeholder, and
 - (ii) omit the words "or grant".

40. In section 170 (power to give assistance in connection with legal proceedings) –

- (a) in subsection (1), in paragraph (b), omit the words "or grant", and
- (b) in subsection (2) –
 - (i) in paragraph (a), omit the words "or the right to be granted a shared ownership lease", and
 - (ii) in paragraph (b), for the words "either of those rights" substitute the words "that right".

41. Omit sections 171 (power to extend right to buy etc.) and 172 to 175 (modifications or Leasehold Reform Act 1967).

42. In section 176 (notices), in subsections (2) and (4), after the word "landlord" in each place in which that word occurs insert the words "or freeholder".

43. In section 177 (errors and omissions in notices) –

- (a) in subsection (2) –
 - (i) in paragraphs (a) and (b), for the references to the landlord substitute references to the freeholder,
 - (ii) in paragraph (a), omit the words "or the right to be granted a shared ownership lease" and the words "or 146", and
 - (iii) after the words "the parties" insert the words "(including the landlord and an intermediate landlord)"; and
- (b) in subsection (3), omit the references to section 147, paragraph 1(3) of Schedule 8 and paragraph 5 of Schedule 9.

44. After section 177 insert –

"Assistance to freeholder.

177A. The landlord and any intermediate landlord shall –

- (a) on written request give the freeholder such information and assistance as it may reasonably require in order to give effect to the provisions of this Part; and
- (b) ensure that all deeds and other documents in its possession or under its control to which the tenant is entitled or reasonably requires on the conveyance to him of the freehold of the dwelling-house are available for this purpose, including in the case of registered land the land certificate and any other documents which would be necessary to perfect the tenant's title if the title were not to be registered."

45. In section 178 (costs) –
- (a) for subsection (1) substitute –
 - “(1) An agreement between –
 - (a) the landlord, an intermediate landlord or the freeholder and a tenant claiming to exercise the right to buy, or
 - (b) the landlord, an intermediate landlord, the freeholder, or, as the case may be, the Housing Corporation and a tenant claiming to exercise the right to a mortgage,
 is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord, intermediate landlord, freeholder or Housing Corporation in connection with the tenant’s exercise of that right.”; and
 - (b) in subsection (2) –
 - (i) omit the words from “or such a right” to “(right to further advances)”, and
 - (ii) for the reference to the landlord substitute a reference to the freeholder.
46. In section 179 (provisions restricting right to buy, etc. of no effect) omit subsection (1).
47. In section 180 (statutory declarations), for the word “landlord” in both places where that word occurs substitute the words “freeholder, intermediate landlord, landlord”.
48. In section 181 (jurisdiction of county court), in subsection (1) –
- (a) in paragraph (b), omit the words “or under a shared ownership lease granted in pursuance of this Part”, and
 - (b) in the words following paragraph (b), omit the words “and paragraph 11 of Schedule 8”.
49. In section 184 (land let with or used for purposes of dwelling-house) –
- (a) for subsection (1) substitute –
 - “(1) For the purposes of this Part land owned by the freeholder in fee simple –
 - (a) which is let by the freeholder to the landlord or to an intermediate landlord,
 - (b) in respect of which each of the intermediate landlords (if any) is an authority or body specified in article 3(2) of the Housing (Extension of Right to Buy) Order 1987, and
 - (c) which is let to the tenant together with the dwelling-house,
 shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967(a)) exceeding two acres.”;
 - (b) in subsection (2) –
 - (i) after the words “any land” insert the words “owned by the freeholder in fee simple”, and
 - (ii) for paragraphs (a) and (b) substitute –
 - “(a) the leases of the land (if any), other than any granted by way of security, are held by authorities or bodies which hold a lease of the dwelling-house and which are authorities or bodies specified in article 3(2) of the Housing (Extension of Right to Buy) Order 1987,
 - (b) the tenant, by a written notice served on the landlord or the freeholder (as the case may be) at any time before he exercises the right to buy requires the land to be included in the dwelling-house, and
 - (c) it is reasonable in all the circumstances that the land should be so included.”;
 - (c) in subsection (3) –
 - (i) for the words “the landlord” substitute the words “the landlord or the freeholder (as the case may be)”, and
 - (ii) omit the words “or the right to be granted a shared ownership lease”;

(a) 1967 c.9.

(d) after subsection (3) insert –

“(3A) A notice under subsection (2) or (3), if served before the freeholder serves on the tenant a notice under section 124 (notice admitting or denying right to buy), shall be served on the landlord and in any other case shall be served on the freeholder.

(3B) On receiving any notice served by the tenant under this section, the landlord shall, as soon as practicable –

(a) serve a copy of the notice on the authority or body which is its landlord in relation to the dwelling-house, and

(b) serve on the tenant notice in writing that this has been done and of the name and address of that authority or body.

(3C) If the authority or body referred to in subsection (3B)(a) is an intermediate landlord, it shall in turn serve a copy of the notice on the authority or body which is its immediate landlord in relation to the dwelling-house (and so on, if that authority or body is also an intermediate landlord).

(3D) An authority or body which serves a copy of the tenant’s notice on another authority or body in accordance with subsection (3C) shall at the same time notify the landlord and the tenant that this has been done and of the name and address of the other authority or body.

(3E) On receiving a notice served on it by the tenant under this section, the freeholder shall, as soon as possible, serve a copy of the notice on each authority or body which, to its knowledge, has a leasehold interest in the dwelling-house and notify the tenant that this has been done.”; and

(e) in subsection (4), omit from the first set of brackets the word “landlord’s”.

50. In section 187 (minor definitions), omit the definitions of “improvement contribution” and “total share”, and at the appropriate places insert –

““freeholder” means the owner of the freehold of the dwelling-house;”

““intermediate landlord” means the owner of a lease of the dwelling-house (other than one created by way of security) which is immediately superior to the lease of the landlord or to the lease of another intermediate landlord;”.

51. In section 188 (index of defined expressions: Part V) –

(a) omit from the first column of the Table the following expressions together with the corresponding entries in the second column –

“additional share” etc.,

“effective discount” etc.,

“initial share” etc.,

“prescribed percentage” etc.,

“right to be granted a shared ownership lease”,

“right to further advances”,

“total share” etc.; and

(b) at the appropriate places in the Table insert –

“freeholder section 187”

“intermediate
landlord section 187”.

52. In Schedule 5 (exceptions to the right to buy) –

(a) omit paragraph 4 (landlord with insufficient interest in the property);

(b) in paragraph 5(1)(a) and (b) (dwelling-houses let in connection with employment), after the words “the landlord” insert the words “an intermediate landlord or the freeholder”;

(c) in paragraphs 7(a), 8 and 9(1)(a) (certain dwelling-houses for the disabled), after the words “the landlord” in each place in which those words occur, insert the words “an intermediate landlord or the freeholder”;

(d) in paragraph 10(1)(b) (certain dwelling-houses for persons of pensionable age), after the words “the landlord” insert the words “an intermediate landlord or the freeholder”;

(e) in paragraph 11(a) (certain dwelling-houses for persons of pensionable age) –

(i) in sub-paragraph (1)(a)(ii), for the words “the landlord” substitute the words “the landlord, an intermediate landlord, the freeholder”, and

(a) Paragraph 11 was substituted by section 1 of the Housing and Planning Act 1986.

- (ii) in sub-paragraph (2), omit head (c); and
- (f) omit paragraph 12 (dwelling-houses held on Crown tenancies).

53. In Schedule 6 (conveyance of freehold and grant of lease in pursuance of right to buy) –

- (a) in Part 1 (common provisions) –
 - (i) in paragraphs 1, 2(1) and (3), 3, 4 and 5 omit the words “or grant”;
 - (ii) in paragraphs 1, 2(2)(a), 3, 4 and 6 for references to the landlord substitute references to the freeholder;
 - (iii) in paragraph 3 (rights of way), omit the word “and” at the end of sub-paragraph (a), in sub-paragraph (b) for the words “or by the person then entitled to the reversion on the tenancy.” substitute the words “or by the person then entitled to the freehold; and”, and after sub-paragraph (b) insert –
 - “(c) such provisions (if any) as the freeholder may require for the purpose of making the dwelling-house subject to rights of way which to the knowledge of the freeholder are necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord or an intermediate landlord has an interest, or to rights of way, of which the freeholder has knowledge, granted or agreed to be granted before the relevant time by the landlord or an intermediate landlord or by the person then entitled to the reversion on the tenancy or an intermediate tenancy, other than such right of way which falls within sub-paragraph (b).”;
 - (iv) after paragraph 4 (covenants and conditions) insert –
 - “4A. Where the freeholder is aware of an obligation relating to the dwelling-house breach of which may expose the landlord or an intermediate landlord to liability to another person, the freeholder shall include in the conveyance such provision (if any) as may be reasonable in the circumstances to relieve the landlord or intermediate landlord (as the case may be) from, or to indemnify him against, that liability.”;
 - (v) in paragraph 5 (reasonable covenants and conditions may be included), for the words “Parts II and III” substitute the words “Part II”;
 - (vi) in paragraph 6 (no charge to be made for landlord’s consent or approval), omit the words “or lease”; and
 - (vii) in paragraph 7, in paragraph (a) in the definition of “tenant’s incumbrance”, for the word “reversion” substitute the words “freehold reversion”.
- (b) in Part II (conveyance of freehold), in paragraphs 8 and 10, for the references to the landlord substitute references to the freeholder;
- (c) omit Part III (leases); and
- (d) in Part IV (charges) –
 - (i) omit paragraph 20 (grant of lease),
 - (ii) in paragraph 21 (conveyance of freehold), in sub-paragraphs (2), (3) and (4), for the references to the landlord substitute references to the freeholder, and
 - (iii) after paragraph 21 insert –
 - “21A—(1) This paragraph applies to a charge (however created or arising) on a lease (including the secure tenancy) extinguished by section 139(2) (terms and effect of conveyance and mortgage) when the freehold is conveyed in pursuance of the right to buy.
 - (2) The extinguishment of the lease does not affect the personal liability of the landlord or intermediate landlord (as the case may be) or of any other person in respect of any obligation which the charge was created to secure.”.

54. In Schedule 7 (mortgage in pursuance of right to a mortgage), in paragraph 2(1), omit the word “or” at the end of sub-paragraph (a) and omit sub-paragraph (b).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the right to buy (Part V of the Housing Act 1985) by enabling a secure tenant to buy the freehold of his dwelling-house in cases where –

- (a) the dwelling-house is a house (i.e. not a flat),
- (b) the secure tenant's landlord has a lease of the dwelling-house, and
- (c) the freeholder and each intermediate landlord (should there be any) is an authority or body which would be subject to the right to buy were it the secure tenant's immediate landlord.

The Schedule contains modifications to Part V of the Housing Act 1985 to meet these circumstances. Apart from certain changes in the procedure, the principal modifications are that the freeholder (and not the landlord) or, where the freeholder is a housing association, the Housing Corporation is required to grant the secure tenant a mortgage and the secure tenant does not have the right to a shared ownership lease.

