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STATUTORY INSTRUMENTS

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**1990 No. 178**

**HOUSING, ENGLAND AND WALES**

**The Housing (Preservation of Right to Buy) (Amendment) Regulations 1990**

<i>Made</i>	- - - -	<i>7th February 1990</i>
<i>Laid before Parliament</i>		<i>8th February 1990</i>
<i>Coming into force</i>	- -	<i>1st March 1990</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by section 171C of the Housing Act 1985<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Housing (Preservation of Right to Buy) (Amendment) Regulations 1990 and shall come into force on 1st March 1990.

2. In these Regulations “the Act” means the Housing Act 1985.

3. Section 124 of the Act (landlord’s notice admitting or denying right to buy) as it applies in the circumstances described in section 171A(1) of the Act (cases in which right to buy is preserved) by virtue of the Housing (Preservation of Right to Buy) Regulations 1989<sup>(2)</sup> is amended by the insertion after subsection (2) of the following subsection—

“(3) A landlord’s notice under this section shall inform the tenant of any application for a determination under paragraph 11 of Schedule 5 (determination that right to buy not to be capable of exercise) and, in the case of a notice admitting the tenant’s right to buy, is without prejudice to any determination made on such an application.”.

4. The Housing (Preservation of Right to Buy) Regulations 1989 are amended as follows—

- (a) in Part I of Schedule 1 (modifications to Part V of the Act as applied to the preserved right to buy), omit paragraphs 6 and 48(b);
- (b) in Schedule 2 (Part V of the Act as it applies in cases where the right to buy is preserved)—
  - (i) in section 124 of the Act as there set out, after subsection (2) insert the subsection set out in regulation 3 above;
  - (ii) in Schedule 5 to the Act as there set out (exceptions to the right to buy), for paragraph 11 substitute the following paragraph—

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(1) 1985 c. 68; sections 171C and 171A were inserted by section 8 of the Housing and Planning Act 1986 (c. 63)

(2) S.I.1989/368, to which there are amendments not relevant to these Regulations.

“11.—(1) The right to buy does not arise if the Secretary of State has determined, on the application of the landlord, that it is not to be capable of being exercised with respect to the dwelling-house.

(2) The Secretary of State shall so determine if, and only if, he is satisfied that the dwelling-house—

(a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by persons of pensionable age, and

(b) was let to the tenant or a predecessor in title of his for occupation by a person of pensionable age (whether the tenant or predecessor or another person).

(3) The Secretary of State shall for the purposes of this paragraph disregard the presence of any feature provided by the tenant or a predecessor in title of his.

(4) An application for a determination under this paragraph shall be made within the period for service of the landlord’s notice under section 124 (notice admitting or denying right to buy).

(5) This paragraph does not apply unless the dwelling-house concerned was first let before 1st January 1990.”.

5. Regulations 3 and 4 above do not apply in any case where the tenant’s notice claiming to exercise the right to buy was served before 1st March 1990.

7th February 1990

*Chris Patten*  
Secretary of State for the Environment

Signed by authority of the Secretary of State for Wales

7th February 1990

*Ian Grist*  
Parliamentary Under-Secretary of State, Welsh  
Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 164 of the Local Government and Housing Act 1989 (c. 42) provides for a new paragraph to be substituted for paragraph 11 of Schedule 5 to the Housing Act 1985. The new paragraph provides an exception to the right to buy in respect of dwellings for persons of pensionable age. The exception only applies where the Secretary of State has determined that the right to buy is not to be capable of being exercised.

These Regulations amend section 124 of the 1985 Act (landlord's notice admitting or denying the right to buy) as it applies where the right to buy is preserved by section 171A of that Act, so as to require the landlord to give notice of an application for a determination under the new paragraph 11 and to provide for an admission of the right to buy to be without prejudice to any such determination. There are consequential amendments to the Housing (Preservation of Right to Buy) Regulations 1989. There is also an amendment to those Regulations consequential on the substitution by the 1989 Act of the new paragraph 11 in Schedule 5 to the 1985 Act.

The changes made by the Regulations do not apply where the tenant's notice claiming to exercise the right to buy was served before 1st March 1990.