

1990 No. 179

HOUSING, ENGLAND AND WALES

The Housing (Extension of Right to Buy) Order 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 171 of the Housing Act 1985(a) and of all other powers enabling them in that behalf, hereby make the following Order—

1. This Order may be cited as the Housing (Extension of Right to Buy) Order 1990 and shall come into force on the 1st March 1990.

2. Part V of the Housing Act 1985 (the right to buy) as it applies in the circumstances described in article 3 of the Housing (Extension of Right to Buy) Order 1987(b) (cases in which right to buy is extended) has effect with the further modifications specified in the Schedule to this Order.

3.—(1) The modifications specified in the Schedule to this Order do not apply in a case where the tenant's notice claiming to exercise the right to buy was served before this Order comes into force.

(2) For the purposes of paragraph (1), no account shall be taken of any steps taken under section 177 of the Housing Act 1985 (errors and omissions in notices).

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

(a) 1985 c. 68.
(b) S.I. 1987/1732.

SCHEDULE
MODIFICATIONS OF PART V

1. In section 124 (notice admitting or denying right to buy) after subsection (2) insert—

“(3) A freeholder’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.”.

2. In section 138A(a) (distribution of purchase money and discount)—

- (a) in subsection (1)—

- (i) for the formula substitute—

$$“A = \left(\frac{R \times P}{V} \right) - S”;$$

- (ii) in the definition of P after “tenant” insert “(disregarding any reduction to be made under section 153B(3) (payments of rent attributable to purchase price etc.))”; and
(iii) after the definition of V insert—

“S is zero except in a case where the formula is applied to calculate the amount payable to a landlord or an intermediate landlord on which an operative notice of delay (which in this section has the same meaning as in section 153B) has been served, and in that case—

- (a) where no operative notice of delay has been served on the freeholder and an operative notice of delay has been served on only one landlord or intermediate landlord, S is the amount of the reduction to be made under section 153B(3), and

- (b) in any other case S is an amount equal to the aggregate of—

- (i) the total of any payments on account treated as having been paid by the tenant by virtue of section 153B(2) solely because of the service of the operative notice of delay on the relevant landlord or intermediate landlord, and a rateable apportionment of any such payments as are so treated because of the service of operative notices of delay both on the relevant landlord or intermediate landlord and on one or more other authorities or bodies, and

- (ii) if section 153B(3)(b) has applied, a sum equal to the appropriate percentage (as defined in section 153B(4)) of the total referred to in (i) above.”;

- (b) after subsection (1) insert—

“(1A) On completion a landlord or intermediate landlord in relation to which A, under the formula in subsection (1), is a negative amount shall pay to the freeholder an amount equal to A; and that amount shall be recoverable as a civil debt due to the freeholder by that landlord or intermediate landlord.”; and

- (c) after subsection (5) insert—

“(6) A landlord or intermediate landlord shall give to the freeholder, if the freeholder so requires by notice in writing served on that landlord or intermediate landlord, such information as that landlord or intermediate landlord has which will assist the freeholder to calculate S under the formula in subsection (1).”.

3. In section 153A(b) (tenant’s notices of delay)—

- (a) in subsection (1)—

- (i) for “his landlord” substitute “the freeholder, where that notice specifies a case in paragraph (a) or (b) below, and, where that notice specifies the case in paragraph (e), the freeholder, an intermediate landlord or the landlord”;

- (ii) in paragraphs (a) and (b) for “the landlord” substitute “the freeholder”;

- (iii) in paragraph (a) for “the period appropriate under subsection (2)” substitute “the period specified in subsection (1)”;

- (iv) omit paragraphs (c) and (d);

(a) See paragraph 21 of the Schedule to the Housing (Extension of Right to Buy) Order 1987.
(b) Section 153A was inserted by section 124 of the Housing Act 1988 (c. 50).

- (v) in paragraph (e) for “the landlord” substitute “an authority or body on which it is proposed to serve the initial notice of delay”; and omit “or his right to be granted a shared ownership lease”; and
 - (vi) for “any of the cases in paragraphs (a) to (d)” substitute “a case in paragraph (a) or (b)”;
 - (b) in subsection (2) in paragraph (a) and (b) for “the landlord” substitute “the authority or body on which the initial notice of delay is served”;
 - (c) in subsection (3)–
 - (i) for “the landlord” in the first place where those words occur substitute “the authority or body on which the initial notice of delay was served”;
 - (ii) in paragraph (a) for “paragraphs (a) to (d)” substitute “paragraph (a) or (b)”; for “the landlord” substitute “the freeholder”; and for “section 124, section 125, section 146 or section 147” substitute “section 124 or 125”; and
 - (iii) in paragraph (b) for “the landlord” substitute “the authority or body on which the initial notice of delay was served”; and
 - (d) in subsection (5)–
 - (i) in paragraph (b) for “the landlord” substitute “the authority or body on which the initial notice of delay was served”; and
 - (ii) for “the landlord”, in the second place where those words occur, substitute “that authority or body”.
4. In section 153B(a) (payments of rent attributable to purchase price etc.)–
- (a) in subsection (1)–
 - (i) for “his landlord” and, in paragraph (a), “the landlord” substitute “the freeholder, an intermediate landlord or the landlord”;
 - (ii) in paragraph (b) for “the landlord” substitute “the freeholder”; and omit “or, as the case may be, section 150”; and
 - (iii) in paragraph (d) omit “or, as the case may be, the notice claiming to exercise the right to be granted a shared ownership lease”; and
 - (b) in subsection (3) omit “or, as the case may be, the tenant’s initial contribution for the grant of a shared ownership lease”.
5. In paragraph 11 of Schedule 5(b) (exceptions to the right to buy)–
- (a) in sub-paragraph (1) for “on the application of the landlord” substitute “on the application of the freeholder”; and
 - (b) in sub-paragraph (4) for “landlord’s notice” substitute “freeholder’s notice”.

(a) Section 153B was inserted by section 124 of the Housing Act 1988.

(b) Paragraph 11 was substituted by section 164 of the Local Government and Housing Act 1989 (c. 42).

EXPLANATORY NOTE

(This note is not part of the Order)

The Housing (Extension of Right to Buy) Order 1987 extends the right to buy under 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 is an authority or body specified in article 3(2) of that Order,

and makes modifications to Part V in those cases. This Order makes further modifications to Part V as it applies in those cases (except in the transitional case described in article 3 of the Order).

Paragraphs 1 and 5 of the Schedule to the Order make modifications relating to applications for determinations under paragraph 11 of Schedule 5 to the Housing Act 1985 (exception to the right to buy: certain dwelling-houses for persons of pensionable age). The modifications made by the remaining paragraphs of the Schedule to the Order concern cases where a tenant's exercise of the right to buy has been delayed by the freeholder, an intermediate landlord or the landlord.

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