
WELSH STATUTORY INSTRUMENTS

2012 No. 2090 (W.240)

HOUSING, WALES

The Housing (Wales) Measure 2011 (Consequential Amendments to Subordinate Legislation) Order 2012

<i>Made</i>	- - - -	<i>9 August 2012</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 August 2012</i>
<i>Coming into force</i>	- -	<i>3 September 2012</i>

The Welsh Ministers, in exercise of the powers conferred by section 34(1), (2) and (3)(b) and section 89(1) and (2) of the Housing (Wales) Measure 2011(1), make the following Order.

Title, application and commencement

1.—(1) The title of this Order is the Housing (Wales) Measure 2011 (Consequential Amendments to Subordinate Legislation) Order 2012 and it applies in relation to Wales.

(2) This Order comes into force on 3 September 2012.

Consequential amendments to right to buy and right to acquire subordinate legislation

2.—(1) The Schedule contains amendments to the right to buy and the right to acquire subordinate legislation in consequence of the commencement of Part 1 of the Housing (Wales) Measure 2011.

(2) The amendments listed in the Schedule to this Order come into force on 3 September 2012.

9 August 2012

Huw Lewis
The Minister for Housing, Regeneration and
Heritage, one of the Welsh Ministers

SCHEDULE

Article 2

Amendments to Right to Buy and Right to Acquire Subordinate
Legislation consequential on Part 1 of the Housing (Wales) Measure 2011**Housing (Preservation of Right to Buy) Regulations 1993**

- 1.—(1) The Housing (Preservation of Right to Buy) Regulations 1993⁽²⁾ are amended as follows.
- (2) In Part I of Schedule 1 (Modifications to Part V of the Housing Act 1985)—
- (a) in paragraph 1(1), after “Part V”, insert “(including section 122A and section 122B inserted by the Housing (Wales) Measure 2011)”;
 - (b) in paragraph 2(1), after “Part V”, insert “(including section 122A and section 122B inserted by the Housing (Wales) Measure 2011)”;
 - (c) in paragraph 5—
 - (i) at the beginning of the paragraph, insert “(1) In section 122, after subsection (1) insert “Unless section 122B applies.””; and
 - (ii) before “At”, insert “(2)”.
- (3) In Schedule 2 (Part V as it applies in cases where the right to buy is preserved) at the beginning of section 122(1) (Qualifying person’s notice claiming to exercise right to buy) insert “Unless section 122B applies”.
- (4) In Schedule 2, after section 122, insert—

“Applications to suspend the right to buy etc in parts of Wales: effect on claims to exercise the right

- 122A.**—(1) Subsection (2) applies if—
- (a) the Welsh Ministers are considering a local housing authority’s application for a direction (“the draft direction”) in accordance with section 4(1) or (2) or 11(1) or (2) of the Housing (Wales) Measure 2011;
 - (b) a claim to exercise the right to buy is made under section 122(1) in respect of a qualifying dwelling-house to which—
 - (i) in the case of an application which is being considered in accordance with section 4(1) or (2) of the 2011 Measure, the draft direction applies, or
 - (ii) in the case of an application which is being considered in accordance with section 11(1) or (2) of the 2011 Measure, the enlarging elements (within the meaning of section 7 of that Measure) of the draft direction apply;
 - (c) the claim was made after the date on which the Welsh Ministers decided to consider the application for the proposed direction, and
 - (d) the application has not been determined or withdrawn.
- (2) The claim to exercise the right to buy shall be stayed unless withdrawn by the qualifying person under section 122(3).
- (3) If the Welsh Ministers refuse to issue the direction, the stay shall be lifted on the date of refusal.
- (4) If the application for the direction is withdrawn, the stay shall be lifted on the date of withdrawal.

(2) S.I.1993/2241. Schedule 5A to the 1993 Regulations was substituted in Wales under the Housing (Preservation of Right to Buy) (Amendment) (Wales) Regulations 2001 (See S.I. 2001/1301 (W. 78)).

(5) If the Welsh Ministers have not granted or rejected an application for a direction within six months beginning with the date on which they decided to consider the application (see sections 4(4) and 11(4) of the 2011 Measure), the stay shall be lifted on the day after the end of that period.

(6) If a claim to exercise the right to buy is stayed at the time the Welsh Ministers grant an application for a direction, the claim is deemed not to have been made.

(7) This section does not affect the computation of any period under Schedule 4.

Suspension of the right to buy in parts of Wales

122B.—(1) This section applies to a qualifying person of a qualifying dwelling-house to which a direction having effect under Part 1 of the Housing (Wales) Measure 2011 applies.

(2) While the direction has effect, the qualifying person may not claim to exercise the right to buy under section 122.

(3) This section does not affect the computation of any period in accordance with Schedule 4.”

(5) In section 124 (Landlord’s notice admitting or denying right to buy) —

(a) in subsection (1), insert “or (3)” after “subsection (2)”; and

(b) after subsection (2) insert—

“(3) But the period for serving a notice in a case where the stay of a claim to exercise the right to buy has been lifted under subsection (3), (4) or (5) of section 122A is four weeks beginning with the lifting date where the requirement of section 119 is satisfied by a period or periods during which the landlord was the landlord on which the qualifying person’s notice under section 122 was served, and eight weeks beginning with the lifting date in any other case.”

(6) In section 153A (Qualifying person’s notices of delay), in subsection (1)(a) insert “or (3)” after “subsection (2)”.

Housing (Extension of Right to Buy) Order 1993

2.—(1) The Housing (Extension of Right to Buy) Order 1993(3) is amended as follows.

(2) In the Schedule (Modifications to Part V)—

(a) in paragraph 3, for section number ““122A” (Tenant’s notice to be served on superior landlords) substitute ““122AA”;

(b) in paragraph 5—

(i) in section 124(1) (Freeholder’s notice admitting or denying the right to buy), for “section 122A”, substitute “section 122AA” and after “subsection (2)”, insert “or (3)”;

(ii) after subsection (2) insert—

“(3) But the period for serving a notice in a case where the stay of a claim to exercise the right to buy has been lifted under subsection (3), (4) or (5) of section 122A is four weeks beginning with the lifting date where the requirement of section 119 is satisfied by a period or periods during which the landlord was the landlord on which the tenant’s notice under section 122 was served, and eight weeks beginning with the lifting date in any other case.”; and

(iii) in subsection (3), for subsection “(3)” substitute “(4)”.

(c) in paragraph 38 of the Schedule in paragraph (a)(iii), after “subsection (2)”, add “or (3)”.

(3) S.I. 1993/2240.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Housing (Right to Acquire) Regulations 1997

3.—(1) The Housing (Right to Acquire) Regulations 1997⁽⁴⁾ are amended as follows.

(2) In Schedule 1 (Modifications to Part V of the Housing Act 1985)—

- (a) in paragraph 1, after “Part V”, insert “(including section 122A and section 122B inserted by the Housing (Wales) Measure 2011)”;
- (b) in paragraph 2, after “Part V”, insert “(including section 122A and section 122B inserted by the Housing (Wales) Measure 2011)”;
- (c) in paragraph 4—
 - (i) at the beginning of the paragraph insert “(1) In section 122, after subsection (1) insert “Unless section 122B applies””; and
 - (ii) before “At”, insert “(2)”.

(3) In Schedule 2 (Part V as it applies in cases where the right to acquire applies), at the beginning of section 122(1) (Tenant’s notice claiming to exercise right to acquire), insert “Unless section 122B applies”.

(4) In Schedule 2, after section 122 (Tenant’s notice claiming to exercise right to acquire) insert—

“Applications to suspend the right to acquire etc in parts of Wales: effect on claims to exercise the right

122A.—(1) Subsection (2) applies if—

- (a) the Welsh Ministers are considering a local housing authority’s application for a direction (“the draft direction”) in accordance with section 4(1) or (2) or 11(1) or (2) of the Housing (Wales) Measure 2011;
- (b) a claim to exercise the right to acquire is made under section 122(1) in respect of a dwelling-house to which—
 - (i) in the case of an application which is being considered in accordance with section 4(1) or (2) of the 2011 Measure, the draft direction applies, or
 - (ii) in the case of an application which is being considered in accordance with section 11(1) or (2) of the 2011 Measure, the enlarging elements (within the meaning of section 7 of that Measure) of the draft direction apply;
- (c) the claim was made after the date on which the Welsh Ministers decided to consider the application for the proposed direction, and
- (d) the application has not been determined or withdrawn.

(2) The claim to exercise the right to acquire shall be stayed unless withdrawn by the tenant under section 122(3).

(3) If the Welsh Ministers refuse to issue the direction, the stay shall be lifted on the date of refusal.

(4) If the application for the direction is withdrawn, the stay shall be lifted on the date of withdrawal.

(5) If the Welsh Ministers have not granted or rejected an application for a direction within six months beginning with the date on which they decided to consider the application (see sections 4(4) and 11(4) of the 2011 Measure), the stay shall be lifted on the day after the end of that period.

(6) If a claim to exercise the right to acquire is stayed at the time the Welsh Ministers grant an application for a direction, the claim is deemed not to have been made.

(7) This section does not affect the computation of any period under Schedule 4.

(4) S.I. 1997/619.

Suspension of the right to acquire in parts of Wales

122B.—(1) This section applies to a tenant of a dwelling-house to which a direction having effect under Part 1 of the Housing (Wales) Measure 2011 applies.

(2) While the direction has effect, the tenant may not claim to exercise the right to acquire under section 122.

(3) This section does not affect the computation of any period in accordance with Schedule 4.”

(5) In section 124, (Landlord’s notice admitting or denying right to acquire)—

(a) in subsection (1), insert “or (3)” after “subsection (2)”; and

(b) after subsection (2) insert—

“(3) But the period for serving a notice in a case where the stay of a claim to exercise the right to acquire has been lifted under subsection (3), (4) or (5) of section 122A is four weeks beginning with the lifting date where the requirement of section 119 is satisfied by a period or periods during which the landlord was the landlord on which the tenant’s notice under section 122 was served, and eight weeks beginning with the lifting date in any other case.”

Housing (Right to Buy) (Information to Secure Tenants) (Wales) Order 2005

4.—(1) The Housing (Right to Buy) (Information to Secure Tenants) (Wales) Order 2005(5) is amended as follows.

(2) In paragraph 1(a) of the Schedule, after “the circumstances in which the right to buy can and cannot be exercised”, insert—

“including the effect of a suspension of the Right to Buy under Part 1 of the Housing (Wales) Measure 2011.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made by the Welsh Ministers, makes consequential amendments to right to buy and right to acquire subordinate legislation following the commencement of Part 1 (Suspension of the Right to Buy and Related Rights) of the Housing (Wales) Measure 2011 (“the Measure”). The amendments come into force in Wales on 3 September 2012.

This Order amends subordinate legislation in respect of Part 5 of the Housing Act 1985 as it applies to the right to buy and the right to acquire.