



# Housing Act 1996

## 1996 CHAPTER 52

### PART I

#### SOCIAL RENTED SECTOR

### CHAPTER II

#### DISPOSAL OF LAND AND RELATED MATTERS

#### *Control by Corporation of land transactions*

#### **9 Consent required for disposal of land by registered social landlord**

- (1) The consent of the Corporation, given by order under the seal of the Corporation, is required for any disposal of land by a registered social landlord under section 8.
- (2) The consent of the Corporation may be so given—
  - (a) generally to all registered social landlords or to a particular landlord or description of landlords;
  - (b) in relation to particular land or in relation to a particular description of land, and may be given subject to conditions.
- (3) Before giving any consent other than a consent in relation to a particular landlord or particular land, the Corporation shall consult such bodies representative of registered social landlords as it thinks fit.
- (4) A disposal of a house by a registered social landlord made without the consent required by this section is void unless—
  - (a) the disposal is to an individual (or to two or more individuals),
  - (b) the disposal does not extend to any other house, and
  - (c) the landlord reasonably believes that the individual or individuals intend to use the house as their principal dwelling.

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- (5) Any other disposal by a registered social landlord which requires consent under this section is valid in favour of a person claiming under the landlord notwithstanding that that consent has not been given; and a person dealing with a registered social landlord, or with a person claiming under such a landlord, shall not be concerned to see or inquire whether any such consent has been given.
- (6) Where at the time of its removal from the register of social landlords a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered social landlord.
- (7) For the purposes of this section “disposal” means sale, lease, mortgage, charge or any other disposition.
- (8) This section has effect subject to section 10 (lettings and other disposals not requiring consent of Corporation).

## **10 Lettings and other disposals not requiring consent of Corporation**

- (1) A letting by a registered social landlord does not require consent under section 9 if it is—
  - (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), of Schedule 1 to the Housing Act 1988, or
  - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the Housing Act 1985.
- (2) Consent under section 9 is not required in the case of a disposal to which section 81 or 133 of the Housing Act 1988 applies (certain disposals for which the consent of the Secretary of State is required).
- (3) Consent under section 9 is not required for a disposal under Part V of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 below (the right to acquire).

## **11 Covenant for repayment of discount on disposal**

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Corporation under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.
- (2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount reduced by one-third for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.
- (3) The liability that may arise under the covenant is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (4) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that

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section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

- (5) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.)—
- (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant and the charge taking effect by virtue of this section ceases to apply in relation to the property disposed of.

## **12 Priority of charge for repayment of discount**

- (1) The charge taking effect by virtue of section 11 (charge for repayment of discount) has priority immediately after any legal charge securing an amount—
- (a) left outstanding by the purchaser, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal,
- subject to the following provisions.

- (2) An advance which is made for a purpose other than that mentioned in subsection (1) (b) and which is secured by a legal charge having priority to the charge taking effect by virtue of section 11, and any further advance which is so secured, shall rank in priority to that charge if, and only if, the registered social landlord by notice served on the institution concerned gives consent.

The landlord shall give consent if the purpose of the advance or further advance is an approved purpose.

- (3) The registered social landlord may at any time by notice served on an approved lending institution postpone the charge taking effect by virtue of section 11 to an advance or further advance which—
- (a) is made to the purchaser by that institution, and
  - (b) is secured by a legal charge not having priority to that charge;
- and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

- (4) The covenant required by section 11 does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of that section, or a person deriving title under him.

A provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

- (5) In this section “approved lending institution” means—
- (a) a building society, bank, insurance company or friendly society,
  - (b) the Corporation, or
  - (c) any body specified, or of a class or description specified, in an order made under section 156 of the Housing Act 1985 (which makes corresponding provision in relation to disposals in pursuance of the right to buy).
- (6) The following are “approved purposes” for the purposes of this section—

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- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
  - (i) the cost of any works to the house,
  - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
  - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and
- (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—
  - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of section 11,
  - (ii) any arrears of interest on such an advance or further advance, and
  - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

In this subsection “service charge” has the meaning given by section 621A of the Housing Act 1985.

- (7) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

### **13 Restriction on disposal of houses in National Parks, &c**

- (1) On the disposal by a registered social landlord, in accordance with a consent given by the Corporation under section 9, of a house situated in—
  - (a) a National Park,
  - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 of the Housing Act 1985,

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) of the Housing Act 1985 (right of pre-emption or restriction on assignment)) contain a covenant to the following effect limiting the freedom of the purchaser (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the house.

- (2) The limitation is that until such time (if any) as may be notified in writing by the registered social landlord to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord.
- (3) That consent shall not be withheld if the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—
  - (a) had his place of work in a region designated by order under section 157(3) of the Housing Act 1985 which, or part of which, is comprised in the National Park or area concerned, or
  - (b) had his only or principal home in such a region,

or if he has had the one in part or parts of that period and the other in the remainder.

The region need not have been the same throughout the period.

- (4) A disposal in breach of such a covenant as is mentioned above is void.
- (5) The limitation imposed by such a covenant is a local land charge and, if the land is registered under the Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if an application to that effect had been made under section 58 of that Act.
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.
- (7) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.), any such covenant as is mentioned in this section ceases to apply in relation to the property disposed of.

#### **14 Treatment of options**

- (1) For the purposes of sections 9 to 13 the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 13(2) (requirement of consent to disposal of house in National Park, &c.) consent to such a grant shall be treated as consent to a disposal made in pursuance of the option.

#### **15 Relevant and exempted disposals**

- (1) In sections 11 to 14 the expression “relevant disposal which is not an exempted disposal” shall be construed as follows.
- (2) A disposal, whether of the whole or part of the house, is a relevant disposal if it is—
  - (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack-rent.
- (3) For the purposes of subsection (2)(b) it shall be assumed—
  - (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
  - (b) that any option to terminate a lease or sub-lease is not exercised.
- (4) A disposal is an exempted disposal if—
  - (a) it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (5));
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (6);
  - (d) it is a compulsory disposal (as defined in subsection (7));

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- (e) the property disposed of is a yard, garden, outhouses or appurtenances belonging to a house or usually enjoyed with it.
- (5) For the purposes of subsection (4)(a) a person is a qualifying person in relation to a disposal if—
- (a) he is the person or one of the persons by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person or one of those persons, or
  - (c) he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.
- (6) The orders referred to in subsection (4)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings);
  - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
  - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.); or
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).
- (7) For the purposes of subsection (4)(d) a compulsory disposal is a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.