



# Housing Act 1985

## 1985 CHAPTER 68

### PART V

#### THE RIGHT TO BUY

##### Modifications etc. (not altering text)

- C1** Pt. V (ss. 118–188) amended by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985](#) (c. 71, SIF 61), s. 4, [Sch. 2 para. 61](#)
- C2** Pt. V (ss. 118–188) modified by [S.I. 1986/2092](#), arts. 3, 6, [Sch. 1](#) (as amended (2.7.2012) by [S.I. 2012/1659](#), art. 1(2), [Sch. 3 para. 30](#) (with arts. 4-6)); [S.I. 1987/1732](#), arts. 3(1), 4(1); [S.I. 1989/368](#), art. 2, [Sch. 1](#); [S.I.1990/179](#), art. 2, [Sch. 1](#)
- C3** Pt. V (ss. 118-188) applied (with modifications) (11.10.1993) by [S.I. 1993/2240](#), art. 3, [Sch.](#) (as amended (W.) (3.9.2012) by [S.I. 2012/2090](#), art. 1(2), [Sch. para. 2](#))  
Pt. V (ss. 118-188) modified (11.10.1993) by [S.I. 1993/2241](#), regs.2, 3, [Schs. 1-4](#) (as amended (W.) (3.9.2012) by [S.I. 2012/2090](#), art. 1(2), [Sch. para. 1](#)).  
Pt. V (ss. 118-188) modified (1.4.1995) by [S.I. 1995/401](#), art. 18, [Sch. para. 8\(c\)](#)  
Pt. V (ss. 118-188): power to modify conferred (1.8.1996) by [1996 c. 52](#), s. 17(2)(3) (with s. 54(1)); [S.I. 1996/2048](#), art. 2(1)
- C4** Pt. V (ss. 118-188) applied (1.8.1996) by [1996 c. 52](#), s. 17(2)(3) (with s. 54(1)); [S.I. 1996/2048](#), art. 2(1)
- C5** Pt. V (ss. 118-188) restricted (4.2.1997) by [1996 c. 52](#), s. 130(4); [S.I. 1997/66](#), art. 2 (subject to savings in [Sch.](#))
- C6** Pt. V modified (1.4.1997) by [S.I. 1997/619](#), regs. 1, 2, [Schs. 1, 2](#) (as amended (W.) (3.9.2012) by [S.I. 2012/2090](#), art. 1(2), [Sch. para. 3](#))

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## *The right to buy*

### 118 The right to buy.

- (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—
- (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house;
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.
- (2) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy belongs jointly to all of them or to such one or more of them as may be agreed between them; but such an agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.
- [<sup>F1</sup>(3) For the purposes of this Part, a dwelling-house which is a commonhold unit (within the meaning of the Commonhold and Leasehold Reform Act 2002) shall be treated as a house and not as a flat.]

#### Textual Amendments

- F1** S. 118(3) inserted (27.9.2004) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), ss. 68, 181(1), Sch. 5 para. 5 (with s. 63); S.I. 2004/1832, **art. 2**

### 119 Qualifying period for right to buy.

- (1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least [<sup>F2</sup>five] years.
- (2) Where the secure tenancy is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

#### Textual Amendments

- F2** Words in s. 119(1) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 180(1)(5)(6)**, 270(3)

### 120 Exceptions to the right to buy

The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

### 121 Circumstances in which the right to buy cannot be exercised.

- [<sup>F3</sup>(1) The right to buy cannot be exercised if the tenant is subject to an order of the court for possession of the dwelling-house.]

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- (2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—
- (a) has a bankruptcy petition pending against him,
  - <sup>F4</sup>(b) .....
  - (c) is an undischarged bankrupt, or
  - (d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

[<sup>F5</sup>(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy.]

#### Textual Amendments

- F3** S. 121(1) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 304(1)**, 325(2) (with [s. 304\(2\)](#))
- F4** S. 121(2)(b) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, **Sch. 10 Pt. III** and by [Insolvency Act 1986 \(c.45, SIF 66\)](#), s. 437, **Sch. 11**, Pt. II para. 10(2)
- F5** S. 121(3) inserted (6.6.2005 for E. and 25.11.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), **ss. 192(1)**, 270(4)(5); [S.S.I. 2005/1451](#), **art. 2(b)**; [S.I. 2005/3237](#), **art. 2(g)**

#### [<sup>F6</sup>121A Order suspending right to buy because of anti-social behaviour

- (1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.
- (2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order (“the suspension period”).
- (3) The court must not make a suspension order unless it is satisfied—
- (a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to [<sup>F7</sup>engage in—
    - (i) housing-related anti-social conduct, or
    - (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and]
  - (b) that it is reasonable to make the order.
- (4) When deciding whether it is reasonable to make the order, the court must consider, in particular—
- (a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and
  - (b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (5) Where a suspension order is made—
- (a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and
  - (b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but

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- (c) the order does not affect the computation of any period in accordance with Schedule 4.
- (6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.
- (7) The court must not make such a further order unless it is satisfied—
- (a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has<sup>F8</sup> engage in—
    - (i) housing-related anti-social conduct, or
    - (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and]
  - (b) that it is reasonable to make the further order.
- (8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—
- (a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and
  - (b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.

[ In this section “housing-related anti-social conduct” has the same meaning as in <sup>F9</sup>(10) section 153A of the Housing Act 1996.]]

#### Textual Amendments

- F6** S. 121A inserted (6.6.2005 for E. and 25.11.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), **ss. 192(2), 270(4)(5)**; [S.I. 2005/1451](#), **art. 2(b)**; [S.I. 2005/3237](#), **art. 2(g)**
- F7** S. 121A(3)(a): paras. (i)(ii) and words substituted (6.4.2007 for E. and otherwise prosp.) for words by [Police and Justice Act 2006 \(c. 48\)](#) ss. 52, 53, {Sch. 14 para. 13(2)}; [S.I. 2007/709](#), **art. 4(c)(d)** (subject to art. 8)
- F8** S. 121A(7)(a): paras. (i)(ii) and words substituted (6.7.2007 for E. and otherwise prosp.) for words by [Police and Justice Act 2006 \(c. 48\)](#) ss. 52, 53, {Sch. 14 para. 13(2)}; [S.I. 2007/709](#), **art. 4(c)(d)** (subject to art. 8)
- F9** S. 121A(10) inserted (6.4.2007 for E. and otherwise prosp.) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 52, 53, Sch. 14 para. 13(3)**; [S.I. 2007/709](#), **art. 4(c)(d)** (subject to art. 8)

#### [<sup>F10</sup>121A] Information to help tenants decide whether to exercise right to buy etc.

- (1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.
- (2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.

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- (3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—
  - (a) shall be such as the body concerned considers appropriate, but
  - (b) shall be in a form which the body considers best suited to explaining those matters in simple terms.
- (4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—
  - (a) is kept up to date so far as is reasonably practicable, and
  - (b) reflects any changes in the matters for the time being specified in an order under this section.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F10** Ss. 121AA, 121B inserted (18.11.2004 for specified purposes and 18.1.2005 otherwise) by [Housing Act 2004 \(c.34\)](#), **ss. 189(1)**, 270(2)(b)(3)(a)

#### [<sup>F11</sup>121B Provision of information

- (1) This section sets out when the document prepared by a body under section 121AA is to be published or otherwise made available.
- (2) The body shall—
  - (a) publish the document (whether in its original or a revised form), and
  - (b) supply copies of it to the body's secure tenants,at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.
- (3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.
- (4) The copies must be made available for that purpose—
  - (a) at the body's principal offices, and
  - (b) at such other places as it considers appropriate,at reasonable hours.
- (5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).
- (6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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#### Textual Amendments

**F11** Ss. 121AA, 121B inserted (18.11.2004 for specified purposes and 18.1.2005 otherwise) by [Housing Act 2004 \(c. 34\)](#), **ss. 189(1), 270(2)(b)(3)(a)**

### *Claim to exercise right to buy*

#### **122 Tenant’s notice claiming to exercise right to buy.**

- (1) A secure tenant claims to exercise the right to buy by written notice to that effect served on the landlord.
- (2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.
- (3) The notice may be withdrawn at any time by notice in writing served on the landlord.

#### **123 Claim to share right to buy with members of family.**

- (1) A secure tenant may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him.
- (2) He may validly do so in the case of any such member only if—
  - (a) that member is his spouse [<sup>F12</sup>, is his civil partner] or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
  - (b) the landlord consents.
- (3) Where by such a notice any members of the tenant’s family are validly required to share the right to buy with the tenant, the right to buy belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Part as joint tenants.

#### Textual Amendments

**F12** Words in s. 123(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 81, 263(2)**, **Sch. 8 para. 28**; [S.I. 2005/3175](#), **art. 2(1)**, **Sch. 1**

#### **124 Landlord’s notice admitting or denying right to buy.**

- (1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within the period specified in subsection (2) a written notice either—
  - (a) admitting his right, or
  - (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to buy.
- (2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or

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periods during which the landlord was the landlord on which the tenant's notice under section 122 was served, and eight weeks in any other case.

<sup>F13</sup>(3) . . . . .

**Textual Amendments**

**F13** Original s. 124(3) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1** para. 4(1)).

**Modifications etc. (not altering text)**

**C7** S. 124 modified by S.I. 1990/178, **arts. 3, 5** (which S.I. was revoked (11.10.1993) by S.I. 1993/2241, **reg. 4**).

**125 Landlord's notice of purchase price and other matters.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—
- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
  - (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest).

serve on the tenant a notice complying with this section.

- (2) The notice shall describe the dwelling-house, shall state the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—
- (a) the value at the relevant time,
  - (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
  - (c) the discount to which the tenant is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).

- (3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.

[<sup>F14</sup>(4) Where the notice states provisions which would enable the landlord to recover from the tenant—

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).]

[<sup>F15</sup>(4A) The notice shall contain a description of any structural defect known to the landlord affecting the dwelling-house or the building in which it is situated or any other building over which the tenant will have rights under the conveyance or lease.]

[<sup>F16</sup>(5) The notice shall also inform the tenant of—



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- (a) the effect of sections 125D and 125E(1) and (4) (tenant's notice of intention, landlord's notice in default and effect of failure to comply),
- (b) his right under section 128 to have the value of the dwelling-house at the relevant time determined or re-determined by the district valuer,
- (c) the effect of section 136(2) (change of tenant after service of notice under section 125),
- (d) the effect of sections 140 and 141(1), (2) and (4) (landlord's notices to complete and effect of failure to comply),
- (e) the effect of the provisions of this Part relating to the right to acquire on rent to mortgage terms, and
- (f) the relevant amount and multipliers for the time being declared by the Secretary of State for the purposes of section 143B.]

#### Textual Amendments

**F14** S. 125(4) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(1)(6)

**F15** S. 125(4A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. 1 para. 3**

**F16** S. 125(5) substituted (11.10.1993) by [1993 c. 28, s. 104](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

#### [<sup>F17</sup>125A Estimates and information about service charges.

- (1) A landlord's notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—
  - (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and
  - (b) the aggregate of those estimated amounts,
 and shall contain a statement of the reference period adopted for the purpose of the estimates.
- (2) A landlord's notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain—
  - (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of—
    - paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant), and
    - section 450A and the regulations made under that section (right to a loan in respect of certain service charges).
- (3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—
  - (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of those estimated costs and contributions, and
  - (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the tenant.]



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#### Textual Amendments

F17 Ss. 125A–C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

### [<sup>F18</sup>125B Estimates and information about improvement contributions.

- (1) A landlord's notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—
  - (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.
- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
  - (a) the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and
  - (b) the aggregate amounts of those estimated costs and contributions.]

#### Textual Amendments

F18 Ss. 125A–C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

### [<sup>F19</sup>125C Reference period for purposes of ss. 125A and 125B.

- (1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—
  - (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
  - (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.
- (2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.]

#### Textual Amendments

F19 Ss. 125A–C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

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**[<sup>F20</sup>125D Tenant’s notice of intention.**

- (1) Where a notice under section 125 has been served on a secure tenant, he shall within the period specified in subsection (2) either—
  - (a) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim, or
  - (b) serve a notice under section 144 claiming to exercise the right to acquire on rent to mortgage terms.
- (2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—
  - (a) the service of the notice under section 125, <sup>F21</sup> . . .
  - (b) where the tenant exercises his right to have the value of the dwelling-house determined or re-determined by the district valuer [<sup>F22</sup>(or where the landlord exercises his right to have the value of the dwelling-house re-determined by the district valuer), the relevant event] .

[ In subsection (2)(b) “the relevant event” means—

  - <sup>F23</sup>(3) (a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,
  - (b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the tenant of the notice under section 128B(3), and
  - (c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).]

**Textual Amendments**

- F20** Ss. 125D, 125E inserted (11.10.1993) by 1993 c. 28, s. 105(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).
- F21** Word in s. 125D(2) repealed (22.9.2008 for E. and otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), ss. 321(1), 325(2), Sch. 16
- F22** Words in s. 125D(2)(b) substituted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 306(3), 325(2) (with s. 306(12))
- F23** S. 125D(3) inserted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 306(4), 325(2) (with s. 306(12))

**[<sup>F24</sup>125E Landlord’s notice in default.**

- (1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the tenant a written notice—
  - (a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and
  - (b) informing him of the effect of this subsection and subsection (4).
- (2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).

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- (3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.
- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).]

#### Textual Amendments

**F24** Ss. 125D, 125E inserted (11.10.1993) by 1993 c. 28, s. 105(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch.1 para. 4(1)).

### *Purchase price*

#### **126 Purchase price.**

- (1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Part is—
  - (a) the amount which under section 127 is to be taken as its value at the relevant time, less
  - (b) the discount to which the purchaser is entitled under this Part.
- (2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

#### **127 Value of dwelling-house.**

- (1) The value of a dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—
  - (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3),<sup>F25</sup> . . .
  - (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the dwelling-house in good internal repair [<sup>F26</sup>, and
  - (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.]
- (2) For a conveyance the assumptions are—
  - (a) that the vendor was selling for an estate in fee simple with vacant possession,
  - (b) that neither the tenant nor a member of his family residing with him wanted to buy, and
  - (c) that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—

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- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6 (but subject to sub-paragraph (3) of that paragraph).
  - (b) that neither the tenant nor a member of his family residing with him wanted to take the lease,
  - (c) that the ground rent would not exceed £10 per annum, and
  - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
- (a) the secure tenant,
  - (b) any person who under the same tenancy was a secure tenant [<sup>F27</sup>or an introductory tenant] before him, and
  - [<sup>F28</sup>(c) any member of his family who, immediately before the secure tenancy was granted (or, where an introductory tenancy has become the secure tenancy, immediately before the introductory tenancy was granted), was a secure tenant or, an introductory tenant of the same dwelling-house under another tenancy.]
- but do not include, in a case where the secure tenant’s tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant [<sup>F29</sup>or an introductory tenant] before the assignment.
- [<sup>F30</sup>(5) In this section “introductory tenant” and “introductory tenancy” have the same meaning as in Chapter I of Part V of the Housing Act 1996.]

#### Textual Amendments

- F25** Word repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), Sch. 5 Pt. II para. 28, [Sch. 12 Pt. I](#)
- F26** Word and s. 127(1)(c) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(3)(6)
- F27** Words in s. 127(4)(b) inserted (12.2.1997) by [S.I. 1997/74](#), art. 2, [Sch. para. 3\(j\)\(i\)](#)
- F28** S. 127(4)(c) substituted (12.2.1997) by [S.I. 1997/74](#), art. 2, [Sch. para. 3\(j\)\(ii\)](#)
- F29** Words in s. 127(4) inserted (12.2.1997) by [S.I. 1997/74](#), art. 2, [Sch. para. 3\(j\)\(iii\)](#)
- F30** S. 127(5) inserted (12.2.1997) by [S.I. 1997/74](#), art. 2, [Sch. para. 3\(k\)](#)

## 128 Determination of value by district valuer.

- (1) Any question arising under this Part as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.
- (2) A tenant may require that value to be determined <sup>F31</sup> . . . by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord’s notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.
- (3) If such proceedings are begun after a previous determination under this section—
  - (a) the tenant may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the dwelling-house at the relevant time to be re-determined, and

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- (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;

and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the tenant a notice stating that the requirement is being or has been made.

- (4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the tenant within four weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).
- (5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the tenant a notice [<sup>F32</sup> stating—
  - (a) the effect of the determination or re-determination,
  - (b) the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy), and
  - (c) the effect of section 128A(2) (right of district valuer to serve review notice and of landlord and tenant to request that such a notice is served).]

[<sup>F33</sup>(5A) The landlord shall, as soon as practicable, serve a copy of the notice on the district valuer if—

- (a) the district valuer requests it; or
- (b) the landlord requests a review of the determination or re-determination under section 128A(2)(b).

(5B) The tenant shall, as soon as practicable, serve a copy of the notice on the district valuer if the tenant requests a review of the determination or re-determination under section 128A(2)(b).

(5C) For the purposes of subsections (5A) and (5B) it does not matter whether the request in question was made before, on or after the service of the notice in accordance with subsection (5).]

<sup>F34</sup>(6) .....

#### Textual Amendments

- F31** Words in s. 128(2) repealed (22.9.2008 for E. and otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 306(5), 321(1), 325(2), **Sch. 16** (with s. 306(12))
- F32** Words in s. 128(5) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 306(6), 325(2) (with s. 306(12))
- F33** S. 128(5A)-(5C) inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 306(7), 325(2) (with s. 306(12))
- F34** S. 128(6) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in [Sch. 1 para. 4\(1\)](#)).

#### [<sup>F35</sup>128A Determination of value: review notices

- (1) Subsection (2) applies if the value of a dwelling-house has been determined or re-determined under section 128 (“the section 128 determination”).
- (2) The district valuer may—

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- (a) on the valuer's own initiative; or
  - (b) at the request of the landlord or the tenant of the dwelling-house;
- serve on the landlord and the tenant a notice of intention to review the section 128 determination giving reasons for the intention (“a review notice”).
- (3) A request under subsection (2)(b) must—
- (a) be in writing;
  - (b) state the reason it is being made; and
  - (c) confirm that the landlord has not made to the tenant a grant of the kind mentioned in section 138(1) in respect of the claim by the tenant to exercise the right to buy in respect of the dwelling-house.
- (4) The landlord or the tenant may not make a request under subsection (2)(b) after the end of the period of 28 days beginning with the section 128(5) service date.
- (5) The district valuer must, before the end of the period of 14 days beginning with the day on which such a request is made, serve on the landlord and the tenant—
- (a) a review notice; or
  - (b) a notice stating—
    - (i) that the request was made;
    - (ii) that the district valuer has decided not to comply with it; and
    - (iii) the reasons for the decision.
- (6) A review notice may not be served after the end of the period of 42 days beginning with the section 128(5) service date.
- (7) A review notice may not be served in relation to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent the service of a review notice in relation to the re-determination).
- (8) A review notice may not be served if the landlord has made a grant of the kind mentioned in subsection (3)(c).
- (9) A person who makes a request under subsection (2)(b) must inform the district valuer if a grant of the kind mentioned in subsection (3)(c) is made during the period of 14 days mentioned in subsection (5).
- (10) Subsection (11) applies if the district valuer is considering whether to serve a review notice on the valuer's own initiative.
- (11) The landlord or the tenant must, if requested by the district valuer, inform the valuer whether a grant of the kind mentioned in subsection (3)(c) has been made.
- (12) In this section and section 128B—
- “a review notice” has the meaning given by subsection (2);
  - “the section 128 determination” has the meaning given by subsection (1);
  - “the section 128(5) service date” means the day on which the landlord serves a notice on the tenant under section 128(5) in relation to the section 128 determination.

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### Textual Amendments

**F35** Ss. 128A, 128B inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 306(2), 325(2) (with s. 306(12))

## 128B Review of determination of value

- (1) The district valuer must review the section 128 determination as soon as reasonably practicable after serving a review notice.
- (2) Subsection (3) applies if, following the review, the district valuer decides that neither of the withdrawal conditions is met.
- (3) The district valuer must, as soon as reasonably practicable, serve on the landlord and the tenant a notice stating—
  - (a) the decision;
  - (b) the reasons for it; and
  - (c) that no further determination or (as the case may be) re-determination is to be made under this section.
- (4) Subsection (5) applies if, following the review, the district valuer decides that either withdrawal condition is met or both are met.
- (5) The district valuer must—
  - (a) as soon as reasonably practicable, withdraw the section 128 determination by serving a further determination notice on the landlord and the tenant; and
  - (b) make a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time.
- (6) Before making such a determination or re-determination, the district valuer must consider any representation made to the valuer by the landlord or the tenant before the end of the period of 14 days beginning with the day on which the further determination notice was served.
- (7) As soon as practicable after such a determination or re-determination has been made, the landlord must serve on the tenant a determination effect notice.
- (8) A determination effect notice is a notice stating—
  - (a) the effect of the further determination or (as the case may be) re-determination; and
  - (b) the matters mentioned in section 125(2) and (3).
- (9) For the purposes of this section, the withdrawal conditions are—
  - (a) that a significant error was made in the section 128 determination; or
  - (b) that the district valuer did not comply with section 128(4) in relation to the section 128 determination.
- (10) This section does not apply to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent this section applying to the re-determination).
- (11) In this section—

“a further determination notice” is a notice stating—



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- (a) that the section 128 determination is withdrawn;
  - (b) the reasons for the withdrawal; and
  - (c) that a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time will be made;
- “significant error”, in relation to the section 128 determination, means an error of fact, or a number of such errors, made in the section 128 determination as a result of which the value of the dwelling-house determined or (as the case may be) re-determined was at least 5% more or less than it would otherwise have been.]

#### Textual Amendments

**F35** Ss. 128A, 128B inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **306(2)**, 325(2) (with s. 306(12))

## 129 Discount.

[<sup>F36</sup>(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

(2) The discount is, subject to any order under subsection (2A)—

- (a) in the case of a house, [<sup>F37</sup>35 per cent]. plus one per cent. for each complete year by which the qualifying period exceeds [<sup>F38</sup>five] years, up to a maximum of 60 per cent.;
- (b) in the case of a flat, [<sup>F39</sup>50 per cent]. plus two per cent. for each complete year by which the qualifying period exceeds [<sup>F40</sup>five] years, up to a maximum of 70 per cent.

(2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

- (a) the minimum percentage discount,
- (b) the percentage increase for each complete year of the qualifying period after the first [<sup>F41</sup>five] , or
- (c) the maximum percentage discount,

shall be such percentage, higher than that specified in subsection (2), as may be specified in the order.

(2B) An order—

- (a) may make different provision with respect to different cases or descriptions of case,
- (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
- (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

(3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

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### Textual Amendments

- F36** S. 129(1)–(2B) substituted for s. 129(1)(2) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 2(1)(2)
- F37** Words in s. 129(2)(a) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 180(2)(b), 270(3)(a) (with s. 180(5)(6))
- F38** Word in s. 129(2)(a) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 180(2)(a), 270(3)(a) (with s. 180(5)(6))
- F39** Words in s. 129(2)(b) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 180(3)(b), 270(3)(a) (with s. 180(5)(6))
- F40** Word in s. 129(2)(b) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 180(3)(a), 270(3)(a) (with s. 180(5)(6))
- F41** Word in s. 129(2A)(b) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 180(4), 270(3)(a) (with s. 180(5)(6))

### 130 Reduction of discount where previous discount given.

- (1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.
- (2) A “previous discount” means a discount given before the relevant time—
- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 [<sup>F42</sup>or 7A] of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
  - [<sup>F43</sup>(aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or]
  - [<sup>F44</sup>(ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord’s share), or]
  - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect [<sup>F45</sup>or].
  - [<sup>F45</sup>(c) in pursuance of any provision of, or required by, this Part as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire).]
- (3) A previous discount qualifies for the purposes of this section if it was given—
- (a) to the person or one of the persons exercising the right to buy, or
  - (b) to the spouse [<sup>F46</sup>, or civil partner,] of that person or one of those persons (if they are living together at the relevant time), or
  - (c) to a deceased spouse [<sup>F47</sup>, or deceased civil partner,] of that person or one of those persons (if they were living together at the time of the death);
- and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.
- (4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—

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- (a) by the receipt of a payment determined by reference to the discount, or
- (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
- (c) in any other way,

then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.

- (5) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

#### Textual Amendments

- F42** Words in s. 130(2)(a) inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 29](#); [S.I. 1992/1753, art. 2\(2\)](#) (with restriction in [Sch. para. 2](#))
- F43** S. 130(2)(aa) inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 29](#); [S.I. 1992/1753, art. 2\(2\)](#) (with restriction in [Sch. para. 2](#))
- F44** S. 130(2)(ab) inserted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 11](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).
- F45** S. 130(2)(c) and word “or” preceding it inserted (1.4.1997) by [S.I. 1997/627, art. 2](#), [Sch. para. 3\(3\)](#)
- F46** Words in s. 130(3)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), [Sch. 8 para. 29\(a\)](#); [S.I. 2005/3175, art. 2\(1\)](#), [Sch. 1](#)
- F47** Words in s. 130(3)(c) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), [Sch. 8 para. 29\(b\)](#); [S.I. 2005/3175, art. 2\(1\)](#), [Sch. 1](#)

#### Modifications etc. (not altering text)

- C8** S. 130 modified by [Housing Associations Act 1985 \(c. 69, SIF 61\)](#), s. 45(4); [Housing Act 1988 \(c.50, SIF 61\)](#), s. 58(3)(4)

### 131 Limits on amount of discount

- (1) Except where the Secretary of State so determines, the discount shall not reduce the price below the amount which, in accordance with a determination made by him, is to be taken as representing so much of the costs incurred in respect of the dwelling-house as, in accordance with the determination—

[<sup>F48</sup>(a) is to be treated as incurred at or after the beginning of that period of account of the landlord in which falls the date which is eight years, or such other period of time as may be specified in an order made by the Secretary of State, earlier than the relevant time, and]

- (b) is to be treated as relevant for the purposes of this sub-section;

and if the price before discount is below that amount, there shall be no discount.

[<sup>F49</sup>(1A) In subsection (1)(a) above “period of account”, in relation to any costs, means the period for which the landlord made up those of its accounts in which account is taken of those costs.]

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- (2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.
- (3) An order or determination under this section may make different provision for different cases or descriptions of case, including different provision for different areas.
- (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

- F48** S. 131(1)(a) substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 122\(2\)\(4\)](#)
- F49** S. 131(1A) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 122\(3\)\(4\)](#)

*The right to a mortgage*

<sup>F50</sup> **132** .....

**Textual Amendments**

- F50** S. 132 amended and repealed (11.10.1993) by [1993 c. 28, ss. 107\(a\), 187\(2\), Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\), Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

<sup>F51</sup> **133** .....

**Textual Amendments**

- F51** S. 133 amended and repealed (11.10.1993) by [1993 c. 28, ss. 107\(a\), 187\(2\), Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\), Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

<sup>F52</sup> **134** .....

**Textual Amendments**

- F52** S. 134 amended and repealed (11.10.1993) by [1993 c. 28, ss. 107\(a\), 187\(2\), Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\), Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

<sup>F53</sup> **135** .....

**Textual Amendments**

- F53** S. 135 amended and repealed (11.10.1993) by [1993 c. 28, ss. 107\(a\), 187\(2\), Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\), Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

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*Change of tenant or landlord after service of notice claiming right to buy*

**136 Change of secure tenant after notice claiming right to buy.**

(1) Where, after a secure tenant (“the former tenant”) has given a notice claiming the right to buy, another person (“the new tenant”)—

- (a) becomes the secure tenant under the same secure tenancy, otherwise than on an assignment made by virtue of section 92 (assignments by way of exchange), or
- (b) becomes the secure tenant under a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of the secure tenancy,

the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.

[<sup>F54</sup>(2) If a notice under section 125 (landlord’s notice of purchase price and other matters) has been served on the former tenant, then, whether or not the former tenant has served a notice under subsection (1) of section 125D (tenant’s notice of intention), the new tenant shall serve a notice under that subsection within the period of twelve weeks beginning with whichever of the following is the later—

- (a) his becoming the secure tenant, <sup>F55</sup> . . .
- (b) where the right to have the value of the dwelling-house determined or re-determined by the district valuer is or has been exercised by him or the former tenant [<sup>F56</sup>(or where the right to have the value of the dwelling-house re-determined by the district valuer is or has been exercised by the landlord), the relevant event] .]

[<sup>F57</sup>(2A) In subsection (2)(b) “the relevant event” means—

- (a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,
- (b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the new tenant or (as the case may be) the former tenant of the notice under section 128B(3), and
- (c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).]

(6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.

(7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the secure tenant.

**Textual Amendments**

**F54** S. 136(2) substituted (11.10.1993) for s. 136(2)-(5) by 1993 c. 28, s. 105(2); S.I. 1993/2134, arts. 2, 4(b)(with saving in Sch. 1 para. 4(1)).

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- F55** Word in s. 136(2) repealed (22.9.2008 for E. and otherwise prosp.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. [321\(1\)](#), [325\(2\)](#), [Sch. 16](#)
- F56** Words in s. 136(2)(b) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. [306\(8\)](#), [325\(2\)](#) (with s. [306\(12\)](#))
- F57** S. 136(2A) inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. [306\(9\)](#), [325\(2\)](#) (with s. [306\(12\)](#))

### 137 Change of landlord after notice claiming right to buy or right to a mortgage.

[<sup>F58</sup>(1) Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to buy <sup>F59</sup> . . . , all parties shall [<sup>F60</sup>, subject to subsection (2),] be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.]

[<sup>F61</sup>(2) If the circumstances after the disposal differ in any material respect, as for example where—

(a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or

<sup>F62</sup>(b) . . . . .

(c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.]

#### Textual Amendments

- F58** S. 137, existing provision renumbered as s. 137(1) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. [24\(1\)](#), [Sch. 5 Pt. I para. 4\(1\)](#)
- F59** Words in S. 137 repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).
- F60** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s.24(1), [Sch. 5 Pt. I para. 4\(2\)](#)
- F61** S. 137(2) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 4\(3\)](#)
- F62** S. 137(2)(b) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

### *Completion of purchase in pursuance of right to buy*

### 138 - Duty of landlord to convey freehold or grant lease.

(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 <sup>F63</sup> . . . have been agreed or determined, the landlord shall make to the tenant—

(a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or



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- (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,

in accordance with the following provisions of this Part.

- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

[<sup>F64</sup>(2A) Subsection (2B) applies if an application is pending before any court—

- (a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or  
(b) for a suspension order to be made in respect of the tenancy.

(2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

- (a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or  
(b) a suspension order being made in respect of the tenancy,  
or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

“demotion order” means a demotion order under section 82A;

“Ground 2 possession order” means an order for possession under Ground 2 in Schedule 2;

“operative Ground 2 possession order” means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

“suspension order” means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made).]

[<sup>F65</sup>(2E) Subsection (1) also has effect subject to—

- (a) section 138A(2) (operation of subsection (1) suspended while initial demolition notice is in force), and  
(b) section 138B(2) (subsection (1) disapplied where final demolition notice is served).]

(3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

#### Textual Amendments

**F63** Words in s. 138(1) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1** para. 4(1)).

**F64** S. 138(2A)-(2D) inserted (15.6.2005 for E. and 25.11.2005 for W.) by **Housing Act 2004** (c. 34), **ss.193(1), 270(4)(5)**; S.I. 2005/1451, **art.2**; S.I. 2005/3237, arts. 1(2), **2**

**F65** S. 138(2E) inserted (18.1.2005) by virtue of **Housing Act 2004** (c. 34), **ss.183(1), 270(3)** (with 183(4))



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### **[<sup>F66</sup>138A Effect of initial demolition notice served before completion**

- (1) This section applies where—
  - (a) an initial demolition notice is served on a secure tenant under Schedule 5A, and
  - (b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.
- (2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

#### **Textual Amendments**

**F66** S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

### **138B Effect of final demolition notice served before completion**

- (1) This section applies where—
  - (a) a secure tenant has claimed to exercise the right to buy, but
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.
- (2) In such a case—
  - (a) the tenant's claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and
  - (b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant's claim, at any time after the notice comes into force.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

#### **Textual Amendments**

**F66** S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

### **138C Compensation where demolition notice served**

- (1) This section applies where—
  - (a) a secure tenant has claimed to exercise the right to buy,
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and
  - (c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).

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- (2) If, within the period of three months beginning with the date when the notice comes into force (“the operative date”), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.
- (3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.
- (4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question.]

**Textual Amendments**

**F66** S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

**139 Terms and effect of conveyance or grant and mortgage.**

- (1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to buy; and if there is then a subtenancy section 139 of the <sup>M1</sup>Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

<sup>F67</sup>(3) .....

**Textual Amendments**

**F67** S. 139(3) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), **Sch. 22**; [S.I. 1993/2134, arts. 2, 4\(b\)](#), **Sch. 2** (with saving in [Sch. 1 para. 4\(1\)](#)).

**Marginal Citations**

**M1** [1925 c. 20](#).

**140 Landlord’s first notice to complete.**

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,
 and informing the tenant of the effect of this section and of section 141(1), (2) and (4) landlord’s second notice to complete).

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(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

[<sup>F68</sup>(3) A notice under this section shall not be served earlier than [<sup>F69</sup>three] months after—

- (a) the service of the landlord’s notice under section 125 (notice of purchase price and other matters), or
- (b) where a notice has been served under section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms), the service of that notice.]

(4) A notice under this section shall not be served if—

- (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
- [<sup>F70</sup>(aa) a review notice (within the meaning of section 128A) has been served in relation to such a determination or re-determination, section 128B applies and the district valuer has neither—
  - (i) served a notice under section 128B(3) (refusal to make further determination), nor
  - (ii) served a notice under section 128B(7) (a determination effect notice),
- (ab) no such review notice has been served but such a notice may still be served under section 128A,]
- (b) proceedings for the determination of any other relevant matter have not been disposed of, or
- (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.

(5) In this section “relevant matters” means matters relating to the grant <sup>F71</sup>. . .

#### Textual Amendments

**F68** S. 140(3) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 12**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

**F69** Word in s. 140(3) substituted (18.1.2005) by **Housing Act 2004 (c. 34), ss. 184(2)(3)**, 270(3)

**F70** S. 140(4)(aa)(ab) inserted (22.9.2008) by **Housing and Regeneration Act 2008 (c. 17), ss. 306(10), 325(2)** (with s. 306(12))

**F71** Words in s. 140(5) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, **arts. 2, 4(b), Sch. 2** (with saving in **Sch. 1 para. 4(1)**).

#### 141 Landlord’s second notice to complete.

(1) If the tenant does not comply with a notice under section 140 (landlord’s first notice to complete), the landlord may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice, and
- (b) informing him of the effect of this section in the event of his failing to comply.

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).

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- (4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 138(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

<sup>F72</sup>142 .....

**Textual Amendments**

**F72** S. 142 amended and repealed (11.10.1993) by 1993 c. 28, ss. 107(b), 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in Sch. 1 paras. 4(1), 10).

<sup>F73</sup>142A **Termination of the right to acquire on rent to mortgage terms**

- (1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.
- (2) In this section “the termination date” means the date falling 8 months after the date of the passing of the Housing Act 2004.]

**Textual Amendments**

**F73** S. 142A inserted (18.11.2004) by **Housing Act 2004 (c. 34), s. 190(1)**

*<sup>F74</sup> Right to acquire on rent to mortgage terms*

**Textual Amendments**

**F74** Ss. 143, 143A, 143B and accompanying header substituted for s. 143 and header (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, **s. 108**; S.I. 1993/2134, **arts. 2,3, 4(b)** (with saving in Sch. 1 para. 4(1)).

<sup>F75</sup>143 **Right to acquire on rent to mortgage terms.**

- (1) Subject to subsection (2) and sections [<sup>F76</sup>142A,] 143A and 143B, where—
- (a) a secure tenant has claimed to exercise the right to buy, and
  - (b) his right to buy has been established and his notice claiming to exercise it remains in force,
- he also has the right to acquire on rent to mortgage terms in accordance with the following provisions of this Part.
- (2) The right to acquire on rent to mortgage terms cannot be exercised if the exercise of the right to buy is precluded by section 121 (circumstances in which right to buy cannot be exercised).

*Status: Point in time view as at 22/09/2008.*

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- (3) Where the right to buy belongs to two or more persons jointly, the right to acquire on rent to mortgage terms also belongs to them jointly.]

#### Textual Amendments

- F75** Ss. 143, 143A, 143B substituted for s. 143 (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, s. 108; S.I. 1993/2134, arts. 2,3, 4(b) (with saving in Sch. 1 para. 4(1)).
- F76** Word in s. 143(1) inserted (18.11.2004) by Housing Act 2004 (c. 34), s. 190(2)

#### Modifications etc. (not altering text)

- C9** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### [<sup>F77</sup>143A] Right excluded by entitlement to housing benefit.

- (1) The right to acquire on rent to mortgage terms cannot be exercised if—
- it has been determined that the tenant is or was entitled to housing benefit in respect of any part of the relevant period, or
  - a claim for housing benefit in respect of any part of that period has been made (or is treated as having been made) by or on behalf of the tenant and has not been determined or withdrawn.
- (2) In this section “the relevant period” means the period—
- beginning twelve months before the day on which the tenant claims to exercise the right to acquire on rent to mortgage terms, and
  - ending with the day on which the conveyance or grant is executed in pursuance of that right.]

#### Textual Amendments

- F77** Ss. 143, 143A, 143B substituted for s. 143 (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, s. 108; S.I. 1993/2134, arts. 2, 3, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Modifications etc. (not altering text)

- C10** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### [<sup>F78</sup>143B] Right excluded if minimum initial payment exceeds maximum initial payment.

- (1) The right to acquire on rent to mortgage terms cannot be exercised if the minimum initial payment in respect of the dwelling-house exceeds the maximum initial payment in respect of it.
- (2) The maximum initial payment in respect of a dwelling-house is 80 per cent. of the price which would be payable if the tenant were exercising the right to buy.

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- (3) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time did not exceed the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = R \times M$$

where—

P = the minimum initial payment;

R = the amount of the weekly rent at the relevant time;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (4) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time exceeded the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = Q + (E \times M)$$

where—

P = the minimum initial payment;

Q = the qualifying maximum for the year of assessment which included the relevant time;

E = the amount by which the weekly rent at that time exceeded the relevant amount;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (5) The minimum initial payment in respect of a dwelling-house which is a flat is 80 per cent. of the amount which would be the minimum initial payment in respect of the dwelling-house if it were a house.
- (6) The relevant amount and multipliers for the time being declared for the purposes of this section shall be such that, in the case of a dwelling-house which is a house, they will produce a minimum initial payment equal to the capital sum which, in the opinion of the Secretary of State, could be raised on a 25 year repayment mortgage in the case of which the net amount of the monthly mortgage payments was equal to the rent at the relevant time calculated on a monthly basis.
- (7) For the purposes of subsection (6) the Secretary of State shall assume—
- (a) that the interest rate applicable throughout the 25 year term were the standard national rate for the time being declared by the Secretary of State under paragraph 2 of Schedule 16 (local authority mortgage interest rates); and
  - (b) that the monthly mortgage payments represented payments of capital and interest only.
- (8) In this section—

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“net amount”, in relation to monthly mortgage payments, means the amount of such payments after deduction of tax under section 369 of the <sup>M2</sup>Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax);

“qualifying maximum” means the qualifying maximum defined in section 367(5) of that Act (limit on relief for interest on certain loans);

“relevant amount” means the amount which at the relevant time was for the time being declared by the Secretary of State for the purposes of this section;

“relevant time” means the time of the service of the landlord’s notice under section 146 (landlord’s notice admitting or denying right);

“rent” means rent payable under the secure tenancy, but excluding any element which is expressed to be payable for services, repairs, maintenance or insurance or the landlord’s costs of management.]

#### Textual Amendments

**F78** Ss. 143, 143A, 143B substituted for s. 143 (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations, or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, s. 108; S.I. 1993/2134, arts. 2, 3, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Modifications etc. (not altering text)

**C11** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Marginal Citations

**M2** 1988 c. 1.

### [<sup>F79</sup>144 Tenant’s notice claiming right.

- (1) [<sup>F80</sup>Subject to section 142A, a secure tenant]claims to exercise the right to acquire on rent to mortgage terms by written notice to that effect served on the landlord.
- (2) The notice may be withdrawn at any time by notice in writing served on the landlord.
- (3) On the service of a notice under this section, any notice served by the landlord under section 140 or 141 (landlord’s notices to complete purchase in pursuance of right to buy) shall be deemed to have been withdrawn; and no such notice may be served by the landlord whilst a notice under this section remains in force.
- (4) Where a notice under this section is withdrawn, the tenant may complete the transaction in accordance with the provisions of this Part relating to the right to buy.]

#### Textual Amendments

**F79** S. 144 substituted for ss. 144, 145 (11.10.1993) by 1993 c. 28, s. 109; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F80** Words in s. 144(1) substituted (18.11.2004) by Housing Act 2004 (c. 34), s. 190(3)

#### Modifications etc. (not altering text)

**C12** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).



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**[<sup>F81</sup>146 Landlord’s notice admitting or denying right.**

- (1) Where a notice under section 144 (notice claiming to exercise the right to acquire on rent to mortgage terms) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant as soon as practicable a written notice either—
  - (a) admitting the tenant’s right and informing him of the matters mentioned in subsection (2), or
  - (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to acquire on rent to mortgage terms.
- (2) The matters are—
  - (a) the relevant amount and multipliers for the time being declared by the Secretary of State for the purposes of section 143B;
  - (b) the amount of the minimum initial payment;
  - (c) the proportion which that amount bears to the price which would be payable if the tenant exercised the right to buy;
  - (d) the landlord’s share on the assumption that the tenant makes the minimum initial payment;
  - (e) the amount of the initial discount on that assumption; and
  - (f) the provisions which, in the landlord’s opinion, should be contained in the conveyance or grant and the mortgage required by section 151B (mortgage for securing redemption of landlord’s share).]

**Textual Amendments**

**F81** S. 146 substituted (11.10.1993) by 1993 c. 28, s. 110; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**Modifications etc. (not altering text)**

**C13** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**[<sup>F82</sup>146A Tenant’s notice of intention.**

- (1) Where a notice under section 146 has been served on a secure tenant, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either—
  - (a) that he intends to pursue his claim to exercise the right to acquire on rent to mortgage terms and the amount of the initial payment which he proposes to make, or
  - (b) that he withdraws that claim and intends to pursue his claim to exercise the right to buy, or
  - (c) that he withdraws both of those claims.
- (2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with the service of the notice under section 146.
- (3) The amount stated in a notice under subsection (1)(a)—
  - (a) shall not be less than the minimum initial payment and not more than the maximum initial payment, and

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(b) may be varied at any time by notice in writing served on the landlord.]

#### Textual Amendments

**F82** Ss. 146A, 146B inserted (11.10.1993) by 1993 c. 28, s. 111; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Modifications etc. (not altering text)

**C14** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### <sup>F83</sup> 146B Landlord's notice in default.

- (1) The landlord may, at any time after the end of the period specified in section 146A(2), serve on the tenant a written notice—
  - (a) requiring him, if he has failed to serve the notice required by section 146A(1), to serve that notice within 28 days, and
  - (b) informing him of the effect of this subsection and subsection (4).
- (2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).
- (3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.
- (4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to acquire on rent to mortgage terms shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).

#### Textual Amendments

**F83** Ss. 146A, 146B inserted (11.10.1993) by 1993 c. 28, s. 111; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Modifications etc. (not altering text)

**C15** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### <sup>F84</sup> 147 Notice of landlord's share and initial discount.

- (1) Where a secure tenant has served—
  - (a) a notice under section 146A(1)(a) stating that he intends to pursue his claim to exercise the right to acquire on rent to mortgage terms, and the amount of the initial payment which he proposes to make, or
  - (b) a notice under section 146A(3)(b) varying the amount stated in a notice under section 146A(1)(a),

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the landlord shall, as soon as practicable, serve on the tenant a written notice complying with this section.

- (2) The notice shall state—
- (a) the landlord's share on the assumption that the amount of the tenant's initial payment is that stated in the notice under section 146A(1)(a) or, as the case may be, section 146A(3)(b), and
  - (b) the amount of the initial discount on that assumption, determined in each case in accordance with section 148.]

#### Textual Amendments

**F84** S. 147 substituted (11.10.1993) by 1993 c. 28, s. 112; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para 4(1)).

#### Modifications etc. (not altering text)

**C16** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### [<sup>F85</sup>148 Determination of landlord's share, initial discount etc.

The landlord's share shall be determined by the formula—

$$S = \frac{P-IP}{P} \times 100$$

the amount of the initial discount shall be determined by the formula—

$$ID = \frac{IP}{P} \times D$$

and the amount of any previous discount which will be recovered by virtue of the transaction shall be determined by the formula—

$$RD = \frac{IP}{P} \times PD$$

where—

S = the landlord's share expressed as a percentage;

P = the price which would be payable if the tenant were exercising the right to buy;

IP = the amount of the tenant's initial payment (but disregarding any reduction in pursuance of section 153B(3));

ID = the amount of the initial discount;

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D = the amount of the discount which would be applicable if the tenant were exercising the right to buy;

RD = the amount of any previous discount which will be recovered by virtue of the transaction;

PD = the amount of any previous discount which would be recovered if the tenant were exercising the right to buy.]

#### Textual Amendments

**F85** S. 148 substituted (11.10.1993) by 1993 c. 28, s. 113; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch.1 para. 4(1)).

#### Modifications etc. (not altering text)

**C17** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### [<sup>F86</sup> 149 Change of landlord after notice claiming right.

- (1) Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to acquire on rent to mortgage terms, all parties shall subject to subsection (2) be in the same position as if the other body—
  - (a) had become the landlord before the notice was given, and
  - (b) had been given that notice and any further notice given by the tenant to the landlord, and
  - (c) had taken all steps which the landlord had taken.
- (2) If the circumstances after the disposal differ in any material respect, as for example where—
  - (a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
  - (b) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.]

#### Textual Amendments

**F86** S. 149 substituted (11.10.1993) by 1993 c. 28, s. 114; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### Modifications etc. (not altering text)

**C18** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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**[<sup>F87</sup>150 Duty of landlord to convey freehold or grant lease.**

- (1) Where a secure tenant has claimed to exercise the right to acquire on rent to mortgage terms and that right has been established, then, as soon as all matters relating to the grant and to securing the redemption of the landlord's share have been agreed or determined, the landlord shall make to the tenant—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,
 in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.]

**Textual Amendments**

**F87** S. 150 substituted (11.10.1993) by 1993 c. 28, s. 115; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**Modifications etc. (not altering text)**

**C19** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**[<sup>F88</sup>151 Terms and effect of conveyance or grant: general.**

- (1) A conveyance of the freehold executed in pursuance of the right to acquire on rent to mortgage terms shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule applies to such a conveyance or lease as it applies to a conveyance or lease executed in pursuance of the right to buy.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the right to acquire on rent to mortgage terms; and if there is then a sub-tenancy section 139 of the <sup>M3</sup>Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.]

**Textual Amendments**

**F88** S. 151 substituted (11.10.1993) by 1993 c. 28, s. 116(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**Modifications etc. (not altering text)**

**C20** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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#### Marginal Citations

M3 1925 c. 20.

#### [<sup>F89</sup>151A Redemption of landlord's share.

Schedule 6A (which makes provision for the redemption of the landlord's share) shall have effect; and a conveyance of the freehold or a grant of a lease executed in pursuance of the right to acquire on rent to mortgage terms shall conform with that Schedule.]

#### Textual Amendments

**F89** S. 151A inserted (11.10.1993) by 1993 c. 28, s. 117(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### [<sup>F90</sup>151B Mortgage for securing redemption of landlord's share.

- (1) The liability that may arise under the covenant required by paragraph 1 of Schedule 6A (covenant for the redemption of the landlord's share in the circumstances there mentioned) shall be secured by a mortgage.
- (2) Subject to subsections (3) and (4), the mortgage shall have priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.
- (3) The following, namely—
  - (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the mortgage, and
  - (b) any further advance which is so secured,shall rank in priority to the mortgage if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.
- (4) The landlord may at any time by written notice served on an approved lending institution postpone the mortgage to any advance or further advance which—
  - (a) is made to the tenant by that institution, and
  - (b) is secured by a legal charge not having priority to the mortgage;and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.
- (5) The approved lending institutions for the purposes of this section are—

the [<sup>F91</sup>Relevant Authority],  
[<sup>F92</sup>an authorised deposit taker  
an authorised insurer]  
and [<sup>F93</sup> an authorised mortgage lender.]
- (6) The approved purposes for the purposes of this section are—
  - (a) to enable the tenant to make an interim or final payment,

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- (b) to enable the tenant to defray, or to defray on his behalf, any of the following—
    - (i) the cost of any works to the dwelling-house,
    - (ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and
    - (iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and
  - (c) to enable the tenant 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 mortgage,
    - (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.
- (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.
- (8) The Secretary of State may by order prescribe—
- (a) matters for which the deed by which the mortgage is effected must make provision, and
  - (b) terms which must, or must not, be contained in that deed,
- but only in relation to deeds executed after the order comes into force.
- (9) The deed by which the mortgage is effected may contain such other provisions as may be—
- (a) agreed between the mortgagor and the mortgagee, or
  - (b) determined by the county court to be reasonably required by the mortgagor or the mortgagee.
- (10) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F90** S. 151B inserted (11.10.1993) by 1993 c. 28, s. 118; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).
- F91** Words in s. 151B(5) substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 5 (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5
- F92** Words in s. 151B(5) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 299(3)
- F93** Words in s. 151B(5) substituted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 307(5), 325(2)

#### Modifications etc. (not altering text)

- C21** S. 151B: transfer of functions (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), art. 2; S.I. 2008/3068, art. 2(1)(b) (with arts. 6-13)



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**C22** S. 151B modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), art. 3, **Sch. para. 2(2)** (with art. 6); [S.I. 2008/3068](#), **art. 2(1)(b)** (with arts. 6-13)

## 152 Landlord's first notice to complete.

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters, and informing the tenant of the effect of this section and of section 153(1), (2) and (4) (landlord's second notice to complete and its effect).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- [<sup>F94</sup>(3) A notice under this section shall not be served earlier than twelve months after the service of the notice under section 146 (landlord's notice admitting or denying right).]
- (4) A notice under this section shall not be served if—
  - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section "relevant matters" means matters relating to the grant and to [<sup>F95</sup>securing the redemption of the landlord's share].

### Textual Amendments

- F94** S. 152(3) substituted (11.10.1993) by [1993 c. 28, s.119\(1\)](#); [S.I. 1993/2134](#), **arts. 2, 4(b)** (with saving in [Sch. 1 para. 4\(1\)](#)).
- F95** Words in s. 152(5) substituted (11.10.1993) by [1993 c. 28, s. 119\(2\)](#); [S.I. 1993/2134](#), **arts. 2, 4(b)** (with saving in [Sch. 1 para. 4\(1\)](#)).

## 153 Landlord's second notice to complete.

- (1) If the tenant does not comply with a notice under section 152 (landlord's first notice to complete), the landlord may serve on him a further written notice—
  - (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).

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- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise [<sup>F96</sup>the right to acquire on rent to mortgage terms] and the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 150(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

**Textual Amendments**  
**F96** Words in s. 153(4) substituted (11.10.1993) by 1993 c. 28, s. 119(3); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*[<sup>F97</sup> Tenant’s sanction for landlord’s delays]*

**Textual Amendments**  
**F97** Heading inserted (11.10.1993) by 1993 c. 28, s. 187(1), Sch. 21 para. 13(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**[<sup>F98</sup>153A Tenant’s notices of delay.**

- (1) Where a secure tenant has claimed to exercise the right to buy, he may serve on his landlord a notice (in this section referred to as an “initial notice of delay”) in any of the following cases, namely,—
  - (a) where the landlord has failed to serve a notice under section 124 within the period appropriate under subsection (2) of that section;
  - (b) where the tenant’s right to buy has been established and the landlord has failed to serve a notice under section 125 within the period appropriate under subsection (1) of that section;
  - <sup>F99</sup>(c) .....
  - <sup>F99</sup>(d) .....
  - (e) where the tenant considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy or his [<sup>F100</sup>right to acquire on rent to mortgage terms];
 and where an initial notice of delay specifies [<sup>F100</sup>either of the cases in paragraphs (a) and (b)], any reference in this section or section 153B to the default date is a reference to the end of the period referred to in the paragraph in question or, if it is later, the day appointed for the coming into force of section 124 of the Housing Act 1988.
- (2) An initial notice of delay—
  - (a) shall specify the most recent action of which the tenant is aware which has been taken by the landlord pursuant to this Part of this Act; and
  - (b) shall specify a period (in this section referred to as “the response period”), not being less than one month, beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (3) will have the effect of cancelling the initial notice of delay.

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- (3) Within the response period specified in an initial notice of delay or at any time thereafter, the landlord may serve on the tenant a counter notice in either of the following circumstances—
- (a) if the initial notice specifies [<sup>F101</sup>either of the cases in paragraphs (a) and (b)] of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, [<sup>F101</sup>or section 125], as the case may be; or
  - (b) if the initial notice specifies the case in subsection (1)(e) and there is no action under this Part which, at the beginning of the response period, it was for the landlord to take in order to allow the tenant expeditiously to exercise his right to buy or his [<sup>F101</sup>right to acquire on rent to mortgage terms] and which remains to be taken at the time of service of the counter notice.
- (4) A counter notice under subsection (3) shall specify the circumstances by virtue of which it is served.
- (5) At any time when—
- (a) the response period specified in an initial notice of delay has expired, and
  - (b) the landlord has not served a counter notice under subsection (3),
- the tenant may serve on the landlord a notice (in this section and section 153B referred to as an “operative notice of delay”) which shall state that section 153B will apply to payments of rent made by the tenant on or after the default date or, if the initial notice of delay specified the case in subsection (1)(e), the date of the service of the notice.
- (6) If, after a tenant has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the tenant has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the tenant may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.]

#### Textual Amendments

**F98** Ss. 153A, 153B inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 124](#)

**F99** S. 153A(1)(c)(d) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); S.I. 1993/2134, [arts. 2, 4\(b\)](#), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

**F100** Words in s. 153A(1) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 13\(2\)](#); S.I. 1993/2134, [arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

**F101** Words in s. 153A(3) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 13\(3\)](#); S.I. 1993/2134, [arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

#### [<sup>F102</sup>153B] Payments of rent attributable to purchase price etc.

- (1) Where a secure tenant has served on his landlord an operative notice of delay, this section applies to any payment of rent which is made on or after the default date or, as the case may be, the date of the service of the notice and before the occurrence of any of the following events (and, if more than one event occurs, before the earliest to occur)—
- (a) the service by the landlord of a counter notice under section 153A(3);
  - (b) the date on which the landlord makes to the tenant the grant required by section 138 or, as the case may be, section 150;
  - <sup>F103</sup>(c) .....

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- (d) the date on which the tenant withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy or, as the case may be, the notice claiming to exercise the <sup>F104</sup>right to acquire on rent to mortgage terms]; and
  - (e) the date on which the tenant ceases to be entitled to exercise the right to buy.
- (2) Except where this section ceases to apply on a date determined under <sup>F104</sup>paragraph (d) or (e)] of subsection (1), so much of any payment of rent to which this section applies as does not consist of—
- (a) a sum due on account of rates <sup>F105</sup>or council tax], or
  - (b) a service charge (as defined in section 621A),
- shall be treated not only as a payment of rent but also as a payment on account by the tenant which is to be taken into account in accordance with subsection (3).
- (3) In a case where subsection (2) applies, the amount which, apart from this section, would be the purchase price or, as the case may be, the <sup>F104</sup>the tenant’s initial payment] shall be reduced by an amount equal to the aggregate of—
- (a) the total of any payments on account treated as having been paid by the tenant by virtue of subsection (2); and
  - (b) if those payments on account are derived from payments of rent referable to a period of more than twelve months, a sum equal to the appropriate percentage of the total referred to in paragraph (a).
- (4) In subsection (3)(b) “the appropriate percentage” means 50 per cent. or such other percentage as may be prescribed.]

#### Textual Amendments

**F102** Ss. 153A, 153B inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 124

**F103** S. 153B(1)(c) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); [S.I. 1993/2134](#), arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1 paras. 4\(1\), 10](#)).

**F104** Words in S. 153B substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 14](#); [S.I. 1993/2134](#), arts. 2, 4(b) (with saving in [Sch. 1 para. 4\(1\)](#)).

**F105** words in s. 153B(2)(a) inserted (1.4.1993) by [S.I. 1993/651](#), art. 2(1), [Sch. 1 para. 14](#).

#### Registration of title

### 154 Registration of title.

- (1) <sup>F106</sup> .....
- (2) Where the landlord’s title to the dwelling-house is not registered, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.
- (3) Where the landlord’s interest in the dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—
- (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord’s lease.

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- (4) A certificate under subsection (2) shall be—
  - (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.
- (5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the [F107Land Registration Act 2002] the landlord is liable to indemnify him.
- (6) F106 .....
- (7) F106 .....

#### Textual Amendments

**F106** S. 154(1)(6)(7) repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

**F107** Words in s. 154(5) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 18(3) (with s. 129); S.I. 2003/1725, art. 2(1)

#### *Provisions affecting future disposals*

### 155 Repayment of discount on early disposal.

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to buy, there is no discount) a covenant binding on the secure tenant and his successors in title to the following effect.
- [F108(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant.
- (3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment.]
- [F109(3A) Where a secure tenant has served on his landlord an operative notice of delay, as defined in section 153A,—
  - (a) the [F110five years] referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section; and
  - [ F111(b) any reference in subsection (3) (other than paragraph (a) thereof) to the making of the initial payment shall be construed as a reference to the date

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which precedes that payment by the period referred to in paragraph (a) of this subsection.]]

#### Textual Amendments

- F108** S. 155(2)(3) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 185(2)(5)**, 270(3)  
**F109** S. 155(3A) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 para. 41**  
**F110** Words in s. 185(3A) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 185(3)(5)**, 270(3)  
**F111** S. 155(3A)(b) substituted (11.10.1993) by [1993 c. 28, s. 120\(2\)](#); S.I. 1993/2134, **arts. 2, 4(b)** (with saving in [Sch. 1 para. 4\(1\)](#)).

#### Modifications etc. (not altering text)

- C23** S. 155(2) modified (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), {s. 185(5)-(7)(a)(8)}  
**C24** S. 155(3) modified (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), {s. 185(5)-(7)(a)(8)}

### [<sup>F112</sup>155A Amount of discount which may be demanded by landlord: right to buy

- (1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (2) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.
- (3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (4) This section is subject to section 155C.

#### Textual Amendments

- F112** Ss. 155A, 155B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 185(4)(5)**, 270(3)

### 155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms

- (1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—
  - (a) the initial payment,
  - (b) any interim payment made before the disposal, or
  - (c) the final payment if so made,
 reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal.]



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#### Textual Amendments

**F112** Ss. 155A, 155B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 185(4)(5)**, 270(3)

### [<sup>F113</sup>**155**Increase attributable to home improvements

- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance or grant and before the disposal,shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
  - (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.]

#### Textual Amendments

**F113** S. 155C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 186(1)**, 270(3)

### **156 Liability to repay is a charge on the premises.**

- (1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- [<sup>F114</sup>(2) Subject to subsections (2A) and (2B), the charge has priority as follows—
  - (a) if it secures the liability that may arise under the covenant required by section 155(2), immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to buy;
  - (b) if it secures the liability that may arise under the covenant required by section 155(3), immediately after the mortgage—
    - (i) which is required by section 151B (mortgage for securing redemption of landlord's share), and
    - (ii) which, by virtue of subsection (2) of that section, has priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.



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(2A) The following, namely—

(a) any advance which is made otherwise than for the purpose mentioned in paragraph (a) or (b) of subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and

(b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

(a) is made to the tenant 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.]

(3) <sup>F115</sup>.....

<sup>F116</sup>(3A) The covenant required by section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the tenant, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, 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.]

(4) The approved lending institutions for the purposes of this section are—

the [<sup>F117</sup>Relevant Authority],

[<sup>F118</sup>an authorised deposit taker

an authorised insurer]

[<sup>F119</sup>an authorised mortgage lender.]<sup>F120</sup> . . .

<sup>F121</sup>(4A) The approved purposes for the purposes of this section are—

(a) to enable the tenant to make an interim or final payment,

(b) to enable the tenant to defray, or to defray on his behalf, any of the following—

(i) the cost of any works to the dwelling-house,

(ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and

(iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and

(c) to enable the tenant 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 this section,

(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.

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(4B) 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.]

(5) <sup>F122</sup> .....

(6) <sup>F122</sup> .....

#### Textual Amendments

**F114** S. 156(2)(2A)(2B) substituted for s. 156(2) (11.10.1993) by 1993 c. 28, s. 120(3); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F115** S. 156(3) repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

**F116** S. 156(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1)(a), Sch. 5 Pt. I para. 1(2)(5)

**F117** Words in s. 156(4) substituted (1.11.1998) by 1998 c. 38, s. 140, Sch. 16 para. 5 (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5

**F118** Words in s. 156(4) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 299(4)

**F119** Words in s. 156(4) substituted (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 307(1)(a), 325(2)

**F120** Words in s. 156(4) repealed (1.10.1996) by 1996 c. 52, ss. 222, 227, Sch. 18 Pt. IV para. 22(1)(c)(3), Sch. 19 Pt. XIII; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

**F121** S. 156(4A)(4B) inserted (11.10.1993) by 1993 c. 28, s. 120(4); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para.4(1)).

**F122** S. 156(5)(6) repealed (22.9.2008) by Housing and Regeneration Act 2008 (c. 17), ss. 307(1)(b), 321(1), 325, Sch. 16; S.I. 2008/2358, art. 4(b)

#### Modifications etc. (not altering text)

**C25** S. 156 applied (16.12.1997) by 1996 c. 53, s. 138(5); S.I. 1997/2846, art. 2

**C26** S. 156: transfer of functions (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), art. 2; S.I. 2008/3068, art. 2(1)(b) (with arts. 6-13)

**C27** S. 156(4) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), art. 3 {Sch. para. 2(2)} (with art. 6); S.I. 2008/3068, art. 2(1)(b) (with arts. 6-13)

#### [<sup>F123</sup>156] **Right of first refusal for landlord etc.**

(1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

(2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

(3) In subsection (2) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance or grant is made.

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- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, or
  - (b) such other person as is determined in accordance with the regulations,
- a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158.
- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the dwelling-house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
  - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title.

Nothing in that subsection affects the generality of subsection (4).

- (8) In a case to which section 157(1) applies—
- (a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but
  - (b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.
- (9) Consent may be given in relation to—
- (a) a particular disposal, or

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- (b) disposals by a particular landlord or disposals by landlords generally, and may, in any case, be given subject to conditions.
- (10) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.
- (12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.]

#### Textual Amendments

**F123** S. 156A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), [ss. 188\(1\)\(5\)\(6\)](#), 270(3)

### 157 Restriction on disposal of dwelling-houses in National Parks, etc.

- (1) Where in pursuance of this Part a conveyance or grant is executed by a local authority<sup>F124</sup> . . . or a housing association (“the landlord”) of a dwelling-house situated in—
- (a) a National Park,
  - (b) an area designated under [<sup>F125</sup>section 82 of the Countryside and Rights of Way Act 2000] as an area of outstanding natural beauty, or
  - (c) an area designated by order of the Secretary of State as a rural area,
- the conveyance or grant may [<sup>F126</sup>(subject to section 156A(8))] contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.
- (2) The limitation is, <sup>F127</sup>. . . , that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his
- [<sup>F128</sup>(a)] , there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3) [<sup>F129</sup>and—
- (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house].
- (3) The condition is that 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 [<sup>F130</sup>or, in the case of a disposal by way of tenancy or licence, preceding the disposal]—
- (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
  - (b) had his only or principal home in such a region;

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or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

- (4) <sup>F131</sup> .....
- (5) <sup>F132</sup> .....
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void [<sup>F133</sup>and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—
- (a) the landlord were possessed of land adjacent to the house concerned; and
  - (b) the covenant were expressed to be made for the benefit of such adjacent land].
- [<sup>F134</sup>(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.]
- (7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter [<sup>F135</sup>a restriction in the register of title reflecting the limitation].
- (8) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F124** Words in s. 157(1) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F125** Words in s. 157(1)(b) substituted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 93, **Sch. 15 Pt. I para. 9** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F126** Words in s. 157(1) inserted (18.1.2005) by Housing Act 2004 (c. 34), **ss. 188(2)(5)(6)**, 270(3)
- F127** Words in s. 157(2) omitted (18.1.2005) by virtue of Housing Act 2004 (c. 34), **ss. 188(2)(b)(5)(6)**, 270 and said words repealed (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 266, 270(4)(5), **Sch. 16**; S.I. 2006/1060, **art. 2(1)(e)(v)**; S.I. 2006/1535, **art. 2(c)(v)**
- F128** "(a)" inserted by Housing Act 1988 (c. 50, SIF 61), **s. 126(2)(6)**
- F129** "and" and s. 157(2)(b) added by Housing Act 1988 (c. 50, SIF 61), **s. 126(2)(6)**
- F130** Words inserted by Housing Act 1988 (c. 50, SIF 61), **s. 126(3)(6)**
- F131** S. 157(4) omitted (18.1.2005) by virtue of Housing Act 2004 (c. 34), **ss. 188(2)(c)(5)(6)**, 270(3) and said sub-provision repealed (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 266, 270(4)(5), **Sch. 16**; S.I. 2006/1060, **art. 2(1)(e)(v)**; S.I. 2006/1535, **art. 2(c)(v)**
- F132** S. 157(5) omitted (18.1.2005) by virtue of Housing Act 2004 (c. 34), **ss. 188(2)(c)(5)(6)**, 270(3) and said sub-provision repealed (6.4.2006 (E.) and 16.6.2006 (W.)) by Housing Act 2004 (c. 34), ss. 266, 270(4)(5), **Sch. 16**; S.I. 2006/1060, **art. 2(1)(e)(v)**; S.I. 2006/1535, **art. 2(c)(v)**
- F133** Words beginning "and, so far" and s. 157(6)(a)(b) added by Housing Act 1988 (c. 50, SIF 61), **s. 126(4)(6)**
- F134** S.157(6A) inserted by Housing Act 1988 (c. 50, SIF 61), **s. 126(5)(6)**
- F135** Words in s. 157(7) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 18(4) (with s. 129); S.I. 2003/1725, **art. 2**

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## 158 Consideration for <sup>F136</sup>disposal under section 156A]

- <sup>F137</sup>(1) The consideration for such a disposal as is mentioned in section 156A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the dwelling-house at the time when the offer is made (as determined in accordance with regulations under that section).]
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed <sup>F138</sup>, conveyed, surrendered or assigned] would realise if sold on the open market by a willing vendor, on the assumption that any liability under—
- (a) the covenant required by section 155 (repayment of discount on early disposal), and
  - <sup>F139</sup>(aa) any covenant required by paragraph 1 of Schedule 6A (obligation to redeem landlord's share where conveyance or grant executed in pursuance of right to acquire on rent to mortgage terms), and]
  - (b) any covenant required by paragraph 6 of Schedule 8 (payment for outstanding share on disposal of dwelling-house subject to shared ownership lease),
- would be discharged by the vendor.
- (3) If the <sup>F140</sup>the offer is accepted in accordance with regulations under section 156A,] no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced <sup>F141</sup>, subject to subsection (4),] by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
- <sup>F142</sup>(4) Where there is a charge on the dwelling-house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer to <sup>F143</sup>(as determined in accordance with regulations under section 156A).]]

### Textual Amendments

- F136** S. 158: words in sidenote substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 188(3)(a)(5)(6)**, 270(3)(a)
- F137** S. 158(1) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 188(3)(b)(5)(6)**, 270(3)(a)
- F138** Words in s. 158(2) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 188(3)(c)(5)(6)**, 270(3)(a)
- F139** S. 158(2)(aa) inserted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 15**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in [Sch. 1 para. 4\(1\)](#)).
- F140** Words in s. 158(3) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 188(3)(d)(5)(6)**, 270(3)
- F141** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), **Sch. 5 Pt. I para. 1(3)(5)**
- F142** S. 158(4) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 1(3)(5)**
- F143** Words in s. 158(4) substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 188(3)(e)(5)(6)**, 270(3)

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### 159 Relevant disposals.

- (1) A disposal, whether of the whole or part of the dwelling-house, is a relevant disposal for the purposes of this Part if it is—
- (a) a further conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(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.

### 160 Exempted disposals.

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) it is a disposal of the whole of the dwelling-house and a further 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 (2));
  - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
  - <sup>[F144]</sup>(c) it is a disposal of the whole of the dwelling-house in pursuance of any such order as is mentioned in subsection (3);]
  - (d) it is a compulsory disposal (as defined in section 161); or
  - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(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 <sup>[F145]</sup>, or the civil partner or a former civil partner,] 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.
- <sup>[F146]</sup>(3) The orders referred to in subsection (1)(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) <sup>F147</sup>.....
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents)] <sup>[F148]</sup>, or
  - (e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).]



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#### Textual Amendments

- F144** S. 160(1)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 15(2)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F145** Words in s. 160(2)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c.33), ss. 81, 263(2), **Sch. 8 para. 18**; S.I. 2005/3175, {art. 2(1)}, Sch. 1
- F146** S. 160(3) added (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. III para. 15(3)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)
- F147** S. 160(3)(c) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(4), 263(2), **Sch. 30**; S.I. 2005/3175, **art. 2(6)**
- F148** S. 160(3)(e) and preceding word inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 81, 263(2), **Sch. 8 para. 30**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

### 161 Meaning of “compulsory disposal”.

In this Part a “compulsory disposal” means 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.

### 162 Exempted disposals which end liability under covenants.

Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house)—

- (a) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- [<sup>F149</sup>(aa) the covenant required by section 156A (right of first refusal for landlord etc.) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and]
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

#### Textual Amendments

- F149** S. 162(aa) inserted (18.1.2005) by Housing Act 2004 (c. 34), **ss. 188(4)(5)(6)**, 270(3)

### 163 Treatment of options.

- (1) For the purposes of this Part 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 157(2) (requirement of consent to disposal of dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

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**[<sup>F150</sup>163A] Treatment of deferred resale agreements for purposes of section 155**

- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
  - (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person—
  - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
  - (a) whether or not the date on which the disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
  - (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
  - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
  - (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
 

“agreement” includes arrangement;

“the discount repayment period” means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004).]

**Textual Amendments**

**F150** S. 163A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 187, 270(3)

*Status: Point in time view as at 22/09/2008.*

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### *Powers of Secretary of State*

#### **164 Secretary of State’s general power to intervene.**

- (1) The Secretary of State may use his powers under this section where it appears to him that tenants generally, a tenant or tenants of a particular landlord, or tenants of a description of landlords, have or may have difficulty in exercising effectively and expeditiously the right to buy or the <sup>F151</sup>right to acquire on rent to mortgage terms].
- (2) The powers may be exercised only after he has given the landlord or landlords notice in writing of his intention to do so and while the notice is in force.
- (3) Such a notice shall be deemed to be given 72 hours after it has been sent.
- (4) Where a notice under this section has been given to a landlord or landlords, no step taken by the landlord or any of the landlords 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, <sup>F151</sup>or the right to acquire on rent to mortgage terms], except in so far as the notice otherwise provides.
- (5) While a notice under this section is in force the Secretary of State may do all such things as appear to him necessary or expedient to enable secure tenants of the landlord or landlords to which the notice was given to exercise the right to buy, <sup>F151</sup>and the right to acquire on rent to mortgage terms]; and he is not bound to take the steps which the landlord would have been bound to take under this Part.

<sup>F152</sup>(6) .....

#### **Textual Amendments**

**F151** Words in s. 164(1)(4)(5) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 16**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch.1 para. 4(1)**).

**F152** S. 164(6) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, **arts. 2, 4(b)**, **Sch. 2** (with saving in **Sch. 1 para. 4(1)**).

#### **165 Vesting orders for purposes of s. 164.**

- (1) For the purpose of conveying a freehold or granting a lease in the exercise of his powers under section 164 the Secretary of State may execute a document, to be known as a vesting order, containing such provisions as he may determine; and for the purposes of stamp duty the vesting order shall be treated as a document executed by the landlord.
- (2) A vesting order has the like effect, except so far as it otherwise provides, as a conveyance or grant duly executed in pursuance of this Part, and, in particular, binds both the landlord and its successors in title and the tenant and his successors in title (including any person deriving title under him or them) to the same extent as if the covenants contained in it and expressed to be made on their behalf had been entered into by them.
- (3) If the landlord’s title to the dwelling-house in respect of which a vesting order is made is not registered, the vesting order shall contain a certificate stating that the freehold conveyed or grant made by it is subject only to such incumbrances, rights and interests as are stated elsewhere in the vesting order or summarised in the certificate.

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- (4) The Chief Land Registrar shall, on a vesting order being presented to him, register the tenant as proprietor of the title concerned; and if the title has not previously been registered—
- (a) he shall so register him with an absolute title, or as the case may require a good leasehold title, and
  - (b) he shall, for the purpose of the registration, accept any such certificate as is mentioned in subsection (3) as sufficient evidence of the facts stated in it.
- (5) ..... <sup>F153</sup>
- (6) If a person suffers loss in consequence of a registration under this section in circumstances in which he would have been entitled to be indemnified under [<sup>F154</sup>Schedule 8 to the Land Registration Act 2002] by the Chief Land Registrar had the registration of the tenant as proprietor of the title been effected otherwise than under this section, he is instead entitled to be indemnified by the Secretary of State and section 166(4) of this Act (recovery of Secretary of State's costs from landlord) applies accordingly.

#### Textual Amendments

**F153** S. 165(5) repealed by [Land Registration Act 1988 \(c. 3, SIF 98:2\)](#), ss. 1(2)(d), 2, **Sch.**

**F154** Words in s. 165(6) substituted (13.10.2003) by [2002 c. 9, ss. 133, 136\(2\), Sch. 11 para. 18\(5\)](#) (with s. 129); [S.I. 2003/1725, art. 2\(1\)](#)

#### 166 Other provisions supplementary to s. 164.

- (1) A notice under section 164 may be withdrawn by a further notice in writing, either completely or in relation to a particular landlord or a particular case or description of case.
- (2) The further notice may give such directions as the Secretary of State may think fit for the completion of a transaction begun before the further notice was given; and such directions are binding on the landlord, and may require the taking of steps different from those which the landlord would have been required to take if the Secretary of State's powers under section 164 had not been used.
- (3) Where in consequence of the exercise of his powers under section 164 the Secretary of State receives sums due to a landlord, he may retain them while a notice under that section is in force in relation to the landlord and is not bound to account to the landlord for interest accruing on them.
- (4) Where the Secretary of State exercises his powers under section 164 with respect to secure tenants of a landlord, he may—
  - (a) calculate, in such manner and on such assumptions as he may determine, the costs incurred by him in doing so, and
  - (b) certify a sum as representing those costs;

and a sum so certified is a debt from the landlord to the Secretary of State payable on a date specified in the certificate, together with interest from that date at a rate so specified.
- (5) sums payable under subsection (4) may, without prejudice to any other method of recovery, be recovered from the landlord by the withholding of sums due from

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the Secretary of State, including sums payable to the landlord and received by the Secretary of State in consequence of his exercise of his powers under section 164.

<sup>F155</sup>(6) .....

**Textual Amendments**

**F155** S. 166(6) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, regs. 2, 4(b), **Sch. 2** (with saving in **Sch. 1** para. 4(1)).

**167 Power to give directions as to covenants and conditions.**

- (1) Where it appears to the Secretary of State that, if covenants or conditions of any kind were included in conveyances or grants of dwelling-houses of any description executed in pursuance of this Part—
  - (a) the conveyances would not conform with Parts I and II of Schedule 6, or
  - (b) the grants would not conform with Parts I and III of that Schedule [<sup>F156</sup>or
  - (c) in the case of conveyances or grants executed in pursuance of the right to acquire on rent to mortgage terms, the conveyances or grants would not conform with Schedule 6A,]

he may direct landlords generally, landlords of a particular description or particular landlords not to include covenants or conditions of that kind in such conveyances or grants executed on or after a date specified in the direction.

- (2) A direction under this section may be varied or withdrawn by a subsequent direction.

**Textual Amendments**

**F156** S. 167(1)(c) and preceding word inserted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 17**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1** para. 4(1)).

**168 Effect of direction under s. 167 on existing covenants and conditions.**

- (1) If a direction under section 167 so provides, the provisions of this section shall apply in relation to a covenant or condition which—
  - (a) was included in a conveyance or grant executed before the date specified in the direction, and
  - (b) could not have been so included if the conveyance or grant had been executed on or after that date.
- (2) The covenant or condition shall be discharged or (if the direction so provides) modified, as from the specified date, to such extent or in such manner as may be provided by the direction; and the discharge or modification is binding on all persons entitled or capable of becoming entitled to the benefit of the covenant or condition.
- (3) The landlord by whom the conveyance or grant was executed shall, within such period as may be specified in the direction—
  - (a) serve on the person registered as the proprietor of the dwelling-house, and on any person registered as the proprietor of a charge affecting the dwelling-house, a written notice informing him of the discharge or modification, and

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- (b) on behalf of the person registered as the proprietor of the dwelling-house, apply to the Chief Land Registrar (and pay the appropriate fee) for notice of the discharge or modification to be entered in the register.

<sup>F157</sup>(4) .....

(5) <sup>F158</sup> .....

**Textual Amendments**  
**F157** S. 168(4) repealed by [Land Registration Act 1988 \(c. 3, SIF 98:2\)](#), s. 2, [Sch.](#)  
**F158** S. 168(5) repealed (13.10.2003) by [2002 c. 9, ss. 135, 136\(2\)](#), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); [S.I. 2003/1275, art. 2\(1\)](#)

**169 Power to obtain information, etc.**

- (1) Where it appears to the Secretary of State necessary or expedient for the purpose of determining whether his powers under section 164 or 166 (general power to intervene) or section 167 or 168 (power to give directions as to covenants and conditions) are exercisable, or for or in connection with the exercise of those powers, he may by notice in writing to a landlord require it—
  - (a) at such time and at such place as may be specified in the notice, to produce any document, or
  - (b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.
- (2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.
- (3) In this section references to a landlord include—
  - (a) a landlord by whom a conveyance or grant was executed in pursuance of this Part. <sup>F159</sup> . . .
  - <sup>F159</sup>(b) .....

**Textual Amendments**  
**F159** S. 169(3)(b) and preceding word repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#))

**170 Power to give assistance in connection with legal proceedings.**

- (1) This section applies to—
  - (a) proceedings under this Part or to determine a question arising under or in connection with this Part, and
  - (b) proceedings to determine a question arising under or in connection with a conveyance or grant executed in pursuance of this Part,
 other than proceedings to determine a question as to the value of a dwelling-house (or part of a dwelling-house).



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- (2) A party or prospective party to proceedings or prospective proceedings to which this section applies, who—
- (a) has claimed to exercise or has exercised the right to buy or the <sup>F160</sup>right to acquire on rent to mortgage terms], or
  - (b) is a successor in title of a person who has exercised either of those rights,
- may apply to the Secretary of State for assistance under this section.
- (3) The Secretary of State may grant the application if he thinks fit to do so on the ground—
- (a) that the case raises a question of principle, or
  - (b) that it is unreasonable having regard to the complexity of the case, or to any other matter, to expect the applicant to deal with it without such assistance,
- or by reason of any other special consideration.
- (4) Assistance by the Secretary of State under this section may include—
- (a) giving advice.
  - (b) procuring or attempting to procure the settlement of the matter in dispute,
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel,
  - (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings, and
  - (e) any other form of assistance which the Secretary of State may consider appropriate;
- but paragraph (d) does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (5) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Secretary of State—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;
- but subject to any charge <sup>F161</sup>imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission].
- (6) References in this section to a solicitor include the Treasury Solicitor.

#### Textual Amendments

**F160** Words in s. 170(2) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 18**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

**F161** Words in s. 170(5) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 37** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2000/774, **art. 2(a)(ii)(iii)** (with transitional provisions and savings in arts. 3-5)



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**Modifications etc. (not altering text)**

- C28** S. 170 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 5(6)**  
**C29** S. 170(4)(c)(d) amended (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, 5, **Sch. 1**

*Power to extend right to buy, etc.*

**171 Power to extend right to buy, etc.**

- (1) The Secretary of State may by order provide that, where there are in a dwelling-house let on a secure tenancy one or more interest to which this section applies, this Part and Part IV (secure tenancies) have effect with such modifications as are specified in the order.
- (2) This section applies to an interest held by—  
 a local authority,  
 a new town corporation,  
 [<sup>F162</sup>a housing action trust]  
 an urban development corporation,  
<sup>F163</sup>  
 . . . .  
 the [<sup>F164</sup>Housing Corporation or Scottish Homes], or  
 a [<sup>F165</sup>registered social landlord],  
 which is immediately superior to the interest of the landlord or to another interest to which this section applies.
- (3) An order under this section—  
 (a) may make different provision with respect to different cases or descriptions of case;  
 (b) may contain such consequential, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient; and  
 (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

- F162** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(5)  
**F163** Words in s. 171(2) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**  
**F164** Words in s. 171(2) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 13** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**  
**F165** Words in s. 171(2) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(15)**

**Modifications etc. (not altering text)**

- C30** S. 171(2) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), art. 3, **Sch. para. 2(1)** (with art. 6); S.I. 2008/3068, **art. 2(1)(b)** (with arts. 6-13)

*Status: Point in time view as at 22/09/2008.*

*Changes to legislation: Housing Act 1985, PART V is up to date with all changes known to be in force on or before 04 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*<sup>F166</sup> Preservation of right to buy on disposal to private sector landlord*

**Textual Amendments**

**F166** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**171A Cases in which right to buy is preserved.**

- (1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).
- (2) In the following provisions of this Part—
  - (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply;
  - (b) “qualifying disposal” means a disposal in relation to which this section applies, and
  - (c) “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).
- (3) This section does not apply—
  - (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
  - (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.
- (4) Orders under subsection (3)(b)—
  - (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**<sup>F167</sup>171B Extent of preserved right: qualifying persons and dwelling-houses.**

- (1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home, subject to the following provisions of this Part.

[ A person to whom this section applies ceases to have the preserved right to buy if <sup>F168</sup>(1A) the tenancy of a relevant dwelling-house becomes a demoted tenancy by virtue of a demotion order under section 6A of the Housing Act 1988.]

- (2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.
- (3) The following are the persons to whom this section applies—

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- (a) the former secure tenant, or in the case of a joint tenancy, each of them;
  - (b) a qualifying successor as defined in subsection (4); and
  - (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.
- (4) The following are qualifying successors for this purpose—
- [ where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was tenant under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant’s family who acquired that assured tenancy under the will or intestacy of the former secure tenant [F170 or in whom that assured tenancy vested under section 17 of the Housing Act 1988 (statutory succession to assured tenancy)];
  - (aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant’s family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy]
  - (b) a person who becomes the tenant of a dwelling-house in pursuance of—
    - (i) a property adjustment order under section 23A or 24 of the Matrimonial Causes Act 1973, or
    - (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 [F171 or Schedule 7 to the Family Law Act 1996] transferring the tenancy, [F172 or
    - (iii) a property adjustment order under section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
    - (iv) an order under paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents), [F173 or
    - (v) an order under Part 2 of Schedule 5, or a property adjustment order under paragraph 9(2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.),]
 in place of a person who had the preserved right to buy in relation to that dwelling-house.
- (5) The relevant dwelling-house is in the first instance—
- (a) in relation to a person within paragraph (a) subsection (3), the dwelling-house which was the subject of the qualifying disposal;
  - (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in [F174 subsection (4)];
  - (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.
- (6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house or, where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

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For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.]

#### Textual Amendments

- F167** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [s. 8\(1\)](#)
- F168** S. 171B(1A) inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and 30.4.2005 otherwise for W.) by Anti-social [Behaviour Act 2003 \(c. 38\)](#), [ss. 14, 93\(2\)](#), [Sch. para. 2\(3\)](#); S.I. [2004/1502](#), [art. 2\(a\)\(iii\)](#); S.I. [2004/2557](#), [art. 2\(a\)\(ii\)](#); S.I. [2005/1225](#), [art. 2\(b\)](#)
- F169** S. 171B(4)(a)(aa) substituted for S. 171B(4)(a) by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 127\(1\)](#)
- F170** Words in s. 171B(4)(a) inserted (24.9.1996) by [1996 c. 52](#), [ss. 222, 232\(2\)](#), [Sch. 18 Pt. IV para. 26\(1\)\(a\)](#)
- F171** Words in s. 171B(4)(b)(ii) inserted (1.10.1997) by [1996 c. 27](#), [s. 66\(1\)](#), [Sch. 8 Pt. III para. 56](#) (with [Sch. 9 paras. 8-10](#)); S.I. [1997/1892](#), [art. 3](#)
- F172** S. 171B(4)(b)(iii)(iv) and word preceding it inserted (1.10.1996) by [1996 c. 52](#), [s. 222](#), [Sch. 18 Pt. III para. 16](#); S.I. [1996/2402](#), [art. 3](#) (subject to transitional provisions and savings in [Sch.](#))
- F173** S. 171B(4)(b)(v) and preceding word inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 81, 263\(2\)](#), [Sch. 8 para. 31](#); S.I. [2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)
- F174** Words in s. 171B(5)(b) substituted (24.9.1996) by [1996 c. 52](#), [s. 222, 232\(2\)](#), [Sch. 18 Pt. IV para. 26\(1\)\(b\)](#)

#### [<sup>F175</sup>171C] Modifications of this Part in relation to preserved right.

- (1) Where the right to buy is preserved, the provisions of this Part have effect subject to such exceptions, adaptations and other modifications as may be prescribed by regulations made by the Secretary of State.
- (2) The regulations may in particular provide—
  - (a) that paragraphs [<sup>F176</sup>1, 3 and] 5 to 11 of Schedule 5 (certain exceptions to the right to buy) do not apply;
  - <sup>F177</sup>(b) .....
  - (c) that the provisions of this Part relating to the [<sup>F178</sup>right to acquire on rent to mortgage terms] do not apply; and
  - (d) that the landlord is not required to but may include a covenant for the repayment of discount, provided its terms are no more onerous than those of the covenant provided for in section 155.
- (3) The prescribed exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of this Part as they apply in cases where the right to buy is preserved; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of this Part as they so apply.
- (4) The regulations—
  - (a) may make different provision for different cases or descriptions of case, including different provision for different areas,
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate, and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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[ The disapplication by the regulations of paragraph 1 of Schedule 5 shall not be taken  
F179(5) to authorise any action on the part of a charity which would conflict with the trusts  
of the charity.]]

#### Textual Amendments

- F175** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), **s. 8(1)**
- F176** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 127(2)**
- F177** S. 171C(2)(b) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in [Sch. 1 para. 4\(1\)](#)).
- F178** Words in s. 171C(2) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), **Sch. 21**, para. 19; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in [Sch. 1 para. 4\(1\)](#)).
- F179** S. 171C(5) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 127(3)**

#### [<sup>F180</sup>171D] Subsequent dealings: disposal of landlord's interest in qualifying dwelling-house.

- (1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—
  - (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
  - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),
 in which case the right to buy ceases to be preserved.
- (2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.
- (3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.
- (4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.]

#### Textual Amendments

- F180** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), **s. 8(1)**

#### Modifications etc. (not altering text)

- C31** S. 171D: transfer of functions (prosp.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 190(a), 325**

#### [<sup>F181</sup>171E] Subsequent dealings: termination of landlord's interest in qualifying dwelling-house.

- (1) On the termination of the landlord's interest in the qualifying dwelling-house—

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- (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
- (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),

the right to buy ceases to be preserved.

- (2) The termination of the landlord's interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord's interest together with a superior interest, does not affect the preserved right to buy, unless—

- (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),

in which case the right to buy ceases to be preserved.

- (3) Where the termination of the landlord's interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.]

#### Textual Amendments

**F181** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

#### [<sup>F182</sup>171F] Subsequent dealings: transfer of qualifying person to alternative accommodation.

The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 [<sup>F183</sup>or on Ground 9 in Schedule 2 to the Housing Act 1988] (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—
  - (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
  - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or
- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).]

#### Textual Amendments

**F182** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**F183** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 42](#)

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**[<sup>F184</sup>171G Land registration and related matters.**

Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.]

**Textual Amendments**

**F184** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**[<sup>F185</sup>171H Disposal after notice claiming to exercise right to buy, etc.**

(1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy <sup>F186</sup> . . . and before the completion of the exercise of that right the dwelling-house is the subject of—

- (a) a qualifying disposal, or
- (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the disponent had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

(2) If the circumstances after the disposal differ in any material respect, as for example where—

- (a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
- <sup>F187</sup>(b) . . . . .
- (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.]

**Textual Amendments**

**F185** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**F186** Words in s. 171H(1) repealed (11.10.1993) by 1993 c. 28, s. 187(2), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1](#) para. 4(1)).

**F187** S. 171H(2)(b) repealed (11.10.1993) by 1993 c. 28, s. 187(2), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1](#) para. 4(1)).

*Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part*

**172 Exclusion of leases where landlord is housing association and freeholder is a charity.**

(1) Part I of the <sup>M4</sup>Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which



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this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.

- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

**Marginal Citations**

M4 1967 c. 88.

<sup>F188</sup>173 .....

**Textual Amendments**

F188 S. 173 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt. X Group 5

**174 Leases granted under this Part to be treated as long leases at a low rent.**

For the purposes of Part I of the <sup>M5</sup>Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

- (a) a tenancy created by the grant of a lease in pursuance of this part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less, <sup>F189</sup> . . .

<sup>F189</sup>(b) .....

**Textual Amendments**

F189 S. 174(b) and the preceding word repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt. X Group 5

**Marginal Citations**

M5 1967 c. 88.

**175 Determination of price payable.**

- (1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that <sup>F190</sup>the circumstances specified in that section do not apply].
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.

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- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.
- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).
- (5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

**Textual Amendments**

**F190** Words substituted by [S.I. 1990/434, reg. 2, Sch. para. 20](#)

*Supplementary provisions*

**176 Notices.**

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Part and the particulars to be contained in the notice.
- (2) Where the form of, and the particulars to be contained in, a notice under this Part are so prescribed, a tenant who proposes to claim, or has claimed, to exercise the right to buy may request the landlord to supply him with a form for use in giving such notice; and the landlord shall do so within seven days of the request.
- (3) A notice under this Part may be served by sending it by post.
- (4) Where the landlord is a housing association, a notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the tenant usually deals.
- (5) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument.

**Modifications etc. (not altering text)**

**C32** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(1\), Sch. 5 Pt. I para. 5\(6\)](#)

**177 Errors and omissions in notices.**

- (1) A notice served by a tenant under this Part is not invalidated by an error in, or omission from, the particulars which are required by regulations under section 176 to be contained in the notice.
- (2) Where as a result of such an error or omission—

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- (a) the landlord has mistakenly admitted or denied the right to buy or the <sup>F191</sup>right to acquire on rent to mortgage terms] in a notice under section 124 or 146, or
- (b) the landlord <sup>F192</sup> . . . has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions mentioned in sub-section (3) and has stated that opinion in the notice,

the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the propose of securing that all parties are, as nearly as may be, in the same position as they would have been if the mistake had not been made.

- (3) The provisions referred to in subsection (2)(b) are—
  - section 125 (notice of purchase price, etc.),  
<sup>F193</sup>  
 . . .
  - [<sup>F194</sup>section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms).]  
<sup>F193</sup>  
 . . .
- (4) Subsection (2) does not apply where the tenant has exercised the right to which the notice relates before the parties become aware of the mistake.

#### Textual Amendments

- F191** Words in s. 177(2) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 20(1)**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).
- F192** Words in s. 177(2)(b) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts, 2, 4(b), **Sch. 2** (with saving in **Sch. 1 para. 4(1)**).
- F193** Entries in s. 177(3) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1 para. 4(1)**).
- F194** Entry in s. 177(3) substituted for entries (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 20(2)**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

#### Modifications etc. (not altering text)

- C33** Ss. 176, 177, 180, 181 applied by **Housing and Planning Act 1986 (c. 63, SIF 61)**, s. 24(1), **Sch. 5 Pt. I para. 5(6)**
- C34** S. 177 excluded by **Housing Act 1988 (c. 50, SIF 61)**, **ss. 122(4), 123(4)**

#### [<sup>F195</sup>178 Costs.

An agreement between the landlord and a tenant claiming to exercise—

- (a) the right to buy,
- (b) the right to acquire on rent to mortgage terms, or
- (c) any such right as is mentioned in paragraph 2(1) or 6(1) of Schedule 6A (redemption of landlord’s share: right to make final or interim payment),

is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant’s exercise of that right.]

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#### Textual Amendments

**F195** S. 178 substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 21**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

### 179 Provisions restricting right to buy, etc. of no effect.

- (1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—
- (a) the grant of a lease in pursuance of the right to buy or the <sup>F196</sup>right to acquire on rent to mortgage terms], or
  - (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted
- or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.
- (2) Where a dwelling-house let on a secure tenancy is land held—
- (a) for the purposes of section 164 of the <sup>M6</sup>Public Health Act 1875 (pleasure grounds), or
  - (b) in accordance with section 10 of the <sup>M7</sup>Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- then, for the purposes of this Part, the dwelling-house shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with section 164 or, as the case may be, section 10.

#### Textual Amendments

**F196** Words in s. 179(1) substituted (11.10.1993) by 1993 c. 28, s. 187(1) **Sch. 21 para. 22**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

#### Marginal Citations

**M6** 1875 c. 55.

**M7** 1906 c. 25.

### 180 Statutory declarations.

A landlord, <sup>F197</sup> . . . or the Secretary of State may, if the landlord, <sup>F197</sup> . . . or Secretary of State thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

#### Textual Amendments

**F197** Words in s. 180 repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, **arts 2, 4(b), Sch. 2** (with saving in **Sch. 1 para. 4(1)**).

#### Modifications etc. (not altering text)

**C35** Ss. 176, 177, 180, 181 applied by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1), **Sch. 5 Pt. I para. 5(6)**

*Status: Point in time view as at 22/09/2008.*

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## 181 Jurisdiction of county court.

- (1) A county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part, and
  - (b) to determine any question arising under this Part or under <sup>F198</sup>a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms]; but subject to sections 128 <sup>F199</sup>, 128B<sup>F200</sup>, 155C and 158<sup>F201</sup> . . . (which provide for matters of valuation to be determined by the district valuer).
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) <sup>F202</sup> . . . . .
- (5) <sup>F202</sup> . . . . .

### Textual Amendments

**F198** Words in s. 181(1) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 23**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

**F199** Word in s. 181(1) inserted (22.9.2008) by **Housing and Regeneration Act 2008 (c. 17), ss. 306(11), 325(2)** (with s. 306(12))

**F200** Words in s. 181 substituted (18.1.2005) by **Housing Act 2004 (c. 34), ss. 186(2), 270(3)(a)**

**F201** Words in s. 181(1) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, **arts. 2, 4(b), Sch. 2** (with saving in **Sch. 1 para. 4(1)**).

**F202** S. 181(4)(5) repealed (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148(1), Sch. 4 para. 182, Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, **Sch. 1 paras. 10, 11(r), 29, 30(b)**

### Modifications etc. (not altering text)

**C36** Ss. 176, 177, 180, 181 applied by **Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1), Sch. 5 Pt. I para. 5(6)**

## 182 Power to repeal or amend local Acts.

- (1) The Secretary of State may by order repeal or amend a provision of a local Act passed before 8th August 1980 where it appears to him that the provision is inconsistent with a provision of this Part relating to the right to buy <sup>F203</sup> . . . .
- (2) Before making an order under this section the Secretary of State shall consult any local housing authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.
- (4) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 22/09/2008.*

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#### Textual Amendments

**F203** Words in s. 182(1) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1** para. 4(1)).

### 183 Meaning of “house”, “flat” and “dwelling-house”.

- (1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.
- (2) A dwelling-house is a house if, and only if, it (or so much of its as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
  - (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
  - (b) where a building is divided vertically, the units into which it is divided may be houses;
  - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) A dwelling-house which is not a house is a flat.

### 184 Land let with or used for purposes of dwelling-house.

- (1) For the purpose of this Part land let together with a 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 <sup>M8</sup>General Rate Act 1967) exceeding two acres.
- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
  - (a) the tenant, by a written notice served on the landlord at any time before he exercises the right to buy or the <sup>F204</sup>right to acquire on rent to mortgage terms], requires the land to be included in the dwelling-house, and
  - (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to buy or the <sup>F204</sup>right to acquire on rent to mortgage terms].
- (4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

#### Textual Amendments

**F204** Words in s. 184(2)(3) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21** para. 24; S.I. 1993/2134, arts. 2, 4(b) (with saving in **Sch. 1** para. 4(1)).

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#### Marginal Citations

M8 1967 c. 9.

### 185 Meaning of “secure tenancy” and “secure tenant”.

- (1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the <sup>M9</sup>Housing Act 1980 and Part I of the <sup>M10</sup>Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.
- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
  - (a) a predecessor of a local authority shall be deemed to have been such an authority, and
  - (b) a housing association shall be deemed to have been registered if it is or was [<sup>F205</sup>a registered social landlord] at any later time.

#### Textual Amendments

F205 Words in s. 185(2)(b) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 14(16)

#### Marginal Citations

M9 1980 c. 51.

M10 1984 c. 29.

### 186 Members of a person’s family.

- (1) A person is a member of another’s family within the meaning of this Part if—
  - (a) he is the spouse [<sup>F206</sup>or civil partner] of that person, or he and that person live together as husband and wife [<sup>F207</sup>or as if they were civil partners] , or
  - (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
  - (a) a relationship by marriage [<sup>F208</sup>or civil partnership] shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as as the legitimate child of his mother and reputed father.

#### Textual Amendments

F206 Words in s. 186(1)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 81, 263(2), Sch. 8 para. 27(2)(a); S.I. 2005/3175, art. 2(1), Sch. 1

F207 Words in s. 186(1)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 81, 263(2), Sch. 8 para. 27(2)(b); S.I. 2005/3175, art. 2(1), Sch. 1



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**F208** Words in s. 186(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 81, 263(2), **Sch. 8 para. 27(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

**Modifications etc. (not altering text)**

**C37** S. 186 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 79(13), **Sch. 11 para. 4(3)**

**187 Minor definitions.**

In this Part—

“improvement” means [<sup>F209</sup>, in relation to a dwelling house,] any alteration in, or addition to, [<sup>F210</sup>the dwelling-house] and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to [<sup>F210</sup>the dwelling-house],
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration;

[<sup>F211</sup>and shall be similarly construed in relation to any other building or land;]

[<sup>F212</sup>“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);]

“long tenancy” means—

- (a) a long tenancy within the meaning of part IV,
- (b) [<sup>F213</sup>a tenancy falling within paragraph 1 of Schedule 1 to the <sup>M11</sup>Tenants’ Rights, Etc. (Scotland) Act 1980, or]
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the <sup>M12</sup>Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly;

<sup>F214</sup>  
...

**Textual Amendments**

**F209** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 30(2)(a)**

**F210** Words substituted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 30(2)(b)**

**F211** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 30(2)(c)**

**F212** Definition inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 30(3)**

**F213** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2)(3), **Sch. 23 para. 30(2)**, **Sch. 24** (which by s. 340(3) is expressed to extend to Scotland only) it is provided that in s. 187, in the definition of “long tenancy”, paragraph (b) shall cease to have effect (S.)

**F214** Definition in s. 187 repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in [Sch. 1 para. 4\(1\)](#)).

**Marginal Citations**

**M11** 1980 c. 52.

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**M12** [S.I. 1983/1113 \(N.I. 15\)](#).

## 188 Index of defined expressions: Part V

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

F215	F215
...	...
bank	section 622
building society	section 622
cemetery	section 622
charity	section 662
compulsory disposal	section 161
co-operative housing association	section 5(2)
F216	F216
...	...
[ <sup>F217</sup> disposal and instrument effecting disposal (in Schedule 9A)]	[ <sup>F217</sup> paragraph 10 of Schedule]
[ F218	[ F218
district valuer]	section 622 ]
dwelling-house	sections 183 and 184
F215	F215
...	...
exempted disposal	section 160
family (member of)	section 186
[ F218	[ F218
final payment]	paragraph 1 of Schedule 6A]
flat	section 183
[ <sup>F217</sup> former landlord and former secure tenant (in relation to a qualifying disposal)]	[ <sup>F217</sup> section 171A(2)(c)]
friendly society	section 622
F215	F215
...	...
house	section 183
housing association	section 5(1)
housing trust	section 6

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improvement	section 187
[ <sup>F217</sup> improvement contribution]	[ <sup>F217</sup> section 187]
incumbrances	paragraph 7 of Schedule 6
[ <sup>F218</sup>	[ <sup>F218</sup>
initial payment and interim payment]	section 143B and paragraph 6 of Schedule 6A]
<sup>F215</sup>	<sup>F215</sup>
. . .	. . .
insurance company	section 622
[ <sup>F218</sup>	[ <sup>F218</sup>
landlord's share]	section 148 and paragraph 7 of Schedule 6A ]
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
[ <sup>F218</sup>	[ <sup>F218</sup>
minimum initial payment and maximum initial payment]	section 143B ]
new town corporation	section 4(b)
<sup>F215</sup>	<sup>F215</sup>
. . .	. . .
[ <sup>F218</sup>	[ <sup>F218</sup>
prescribed]	section 614]
[ <sup>F217</sup> preserved right to buy]	[ <sup>F217</sup> section 171A(2)(a)]
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
[ <sup>F217</sup> qualifying disposal (in relation to the preserved right to buy)]	[ <sup>F217</sup> section 171A(2)(b)]
[ <sup>F217</sup> qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)]	[ <sup>F217</sup> section 171B(1)]
[ <sup>F217</sup> reference period (for purposes of s. 125A or 125B)]	[ <sup>F217</sup> section 125C]
[ <sup>F219</sup> registered social landlord]	[ <sup>F219</sup> section 5(4) and (5)]
regular armed forces of the Crown	section 622

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[ <sup>F220</sup> the Relevant Authority]	[ <sup>F220</sup> section 6A]
relevant disposal	section 159 (and see section 452(3))
relevant time	section 122(2)
F215	F215
...	...
[ <sup>F218</sup>	[ <sup>F218</sup>
right to acquire on rent to mortgage terms]	section 143]
right to buy	section 118(1)
F215	F215
...	...
F215	F215
...	...
secure tenancy and secure tenant	sections 79 and 185
[ <sup>F217</sup> service charge]	[ <sup>F217</sup> section 621A]
tenant's incumbrance	paragraph 7 of Schedule 6
F215	F215
...	...
trustee savings bank	section 622
urban development corporation	section 4(d)

#### Textual Amendments

- F215** Entries in s. 188 repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1 para. 4(1)**).
- F216** Entry repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, **Sch. 16 para. 14(a)**, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F217** Entries in s. 188 inserted (17.8.1992) by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 31**; S.I. 1992/1753, **art. 2(2)**
- F218** Entries in s. 188 inserted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 25**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).
- F219** Entry in s. 188 substituted (1.10.1996) by S.I. 1996/2325, **art. 5(1)**, **Sch. 2 para. 14(17)**
- F220** Entry in s. 188 inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 14(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

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