



# Housing Act 1985

## 1985 CHAPTER 68

### PART XVI

#### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

##### *Assistance by way of repurchase*

#### **547 Repurchase.**

The provisions of Schedule 20 have effect with respect to assistance by way of repurchase, as follows—

- Part I—The agreement to repurchase.
- Part II—Price payable and valuation.
- Part III—Supplementary provisions.

#### **548 Repurchase by authority other than local housing authority.**

- (1) Where the local housing authority give a notice of determination to a person stating that he is entitled to assistance by way of repurchase and they are of opinion that—
  - (a) a relevant interest in the dwelling was disposed of by a public sector authority mentioned in column 1 of the following Table (or a predecessor mentioned there of such an authority),
  - (b) there has been no disposal within paragraph (a) since the time of that disposal, and
  - (c) any conditions mentioned in column 2 of the Table in relation to the authority are met,

they shall forthwith give that other authority a notice in writing, together with a copy of the notice of determination, stating that the authority may acquire in accordance with this Part, the interest of the person entitled to assistance.

*Status: Point in time view as at 01/04/2010.*

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TABLE

<b>Public sector authority</b>	<b>Conditions</b>
[ <sup>F1</sup> A1. A non-profit registered provider of social housing (other than a co-operative housing association) or a predecessor housing association of that provider.	None]
1. A [ <sup>F2</sup> registered social landlord] (other than a co-operative housing association) or a predecessor housing association of [ <sup>F3</sup> that registered social landlord.]	None.
2. A development corporation.	No interests have at any time been transferred from the corporation in pursuance of a scheme made or having effect as if made under section 42 of the <sup>M1</sup> New Towns Act 1981 (transfer o housing to district council).
3. <sup>F4</sup>	<sup>F4</sup>
...	...
Another local housing authority or a predecessor of that authority.	The local housing authority provide housing accommodation in the vicinity of the defective dwelling with which the dwelling may conveniently be managed.
5. Any other public sector authority prescribed by order of the Secretary of State, or a predecessor so prescribed.	Any conditions prescribed in the order.

- (2) The other authority may, within the period of four weeks beginning with the service of the notice on them, give notice in writing to the local housing authority—
- (a) stating that they wish to acquire the interest, and
  - (b) specifying the address of the principal office of the authority and any other address which may also be used as an address for service;
- and the local housing authority shall forthwith give to the person entitled to assistance a transfer notice, that is, a notice in writing of the contents of the notice received by them and the effect of subsection (3).
- (3) After a transfer notice has been given to the person entitled to assistance, the other authority shall be treated as the appropriate authority for the purposes of anything done or falling to be done under this Part, except that—
- (a) a request under paragraph 2 of Schedule 20 (request for notice of proposed terms of acquisition) may be made either to the local housing authority or to the other authority, and
  - (b) any such request given to the local housing authority (whether before or after the notice) shall be forwarded by them to the other authority;
- and references in this Part to “the purchasing authority” shall be construed accordingly.

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(4) An order under this section shall be made by statutory instrument.

#### Textual Amendments

- F1** Entry A1 in the Table in s. 548(1) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), **Sch. 2 para. 34** (with art. 6, Sch. 3)
- F2** Words in entry 1 of the Table in s. 458(1) substituted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 14(27)(a)**
- F3** Words in entry 1 in the Table of s. 458(1) substituted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 14(27)(b)**
- F4** Entry 3 in the Table in s. 548(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

#### Marginal Citations

- M1** [1981 c. 64](#).

### 549 Interest subject to right of pre-emption &c.

- (1) This section applies where a person (“the owner”) is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a covenant relating to his interest in the dwelling whereby—
- before disposing of the interest he must offer to dispose of it to a public sector authority, or
  - in the case of a leasehold interest, he may require a public sector authority who are his landlord to accept a surrender of the lease but is otherwise prohibited from disposing of it,
- (2) If the public sector authority are the local housing authority, the covenant shall be disregarded for the purposes of Schedule 20 (repurchase).
- (3) If the public sector authority are not the local housing authority, the provisions of this Part as to repurchase do not apply so long as there is such a covenant; but if—
- the owner disposes of his interest to the public sector authority in pursuance of the covenant or lease, and
  - the interest acquired by that authority on the disposal subsists only in the land affected, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or part of it,
- the owner is entitled to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal.
- (4) For the purposes of this section—
- the “consideration for the disposal” means the amount before any reduction required by section 158(3) (reduction corresponding to amount of discount repayable or amount payable for outstanding share under shared ownership lease) or any provision to the like effect, and
  - the “defect-free value” means the amount that would have been the consideration for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

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## 550 Compulsory purchase compensation to be made up to 95 per cent of defect-free value.

(1) Where a person (“the owner”) has disposed of an interest in a defective dwelling, otherwise than in pursuance of Schedule 20 (repurchase), to an authority possessing compulsory purchase powers and—

- (a) immediately before the time of the disposal he was eligible for assistance under this Part in respect of the dwelling,
- (b) the amount paid as consideration for the disposal did not include any amount attributable to his right to apply for such assistance, and
- (c) on the disposal the authority acquired an interest in any of the affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or part of it,

he is entitled, subject to the following provisions of this section, to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the amount of the compensation for the disposal.

(2) For the purposes of this section—

- (a) the “amount of compensation for the disposal” means the amount that would have been the proper amount of compensation for the disposal (having regard to any relevant determination of the [<sup>F5</sup>Upper Tribunal]) or, if greater, the amount paid as the consideration for the disposal, and
- (b) the “defect-free value” means the amount that would have been the proper amount of compensation for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect;

but excluding, in either case any amount payable for disturbance or for any other matter not directly based on the value of land.

(3) For the purposes of this section, it shall be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so).

(4) Where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development, it shall be assumed for the purposes of determining the defect-free value that it did not fall to be so assessed.

(5) The amount payable by the local housing authority under this section shall be reduced by the amount of any payment made in respect of the defective dwelling under Schedule 23 (payments for well-maintained houses).

(6) In this section “authority possessing compulsory purchase powers” has the same meaning as a in the <sup>M2</sup>Land Compensation Act 1961.

### Textual Amendments

**F5** Words in s. 550(2)(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 174} (with Sch. 5)

### Marginal Citations

**M2** 1961 c. 33

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## **551 Supplementary provisions as to payments under s. 549 or 550.**

- (1) The local housing authority are not required to make a payment to a person under—
  - (a) section 549 (making-up of consideration on disposal in pursuance of right of pre-emption, &c.), or
  - (b) section 550 (making-up of compulsory purchase compensation),unless he makes a written application to them for payment before the end of the period of two years beginning with the time of the disposal.
- (2) Where the authority—
  - (a) refuse an application for payment under section 549 on any grounds, or
  - (b) refuse an application for payment under section 550 on the grounds that the owner was not eligible for assistance in respect of the defective dwelling,they shall give the applicant written notice of the reasons for their decision.
- (3) Any question arising—
  - (a) under section 549 or 550 as to the defect-free value, or
  - (b) under section 550 as to the amount of compensation for the disposal,shall be determined by the district valuer if the owner or the local housing authority so require by notice in writing served on the district valuer.
- (4) A person serving a notice on the district valuer in pursuance of subsection (3) shall serve notice in writing of that fact on the other party.
- (5) Before making a determination in pursuance of subsection (3), the district valuer shall consider any representation by the owner or the authority made to him within four weeks from the service of the notice under that subsection.

## **552 Reimbursement of expenses incidental to repurchase.**

- (1) A person whose interest in a defective dwelling is acquired by the purchasing authority in pursuance of Schedule 20 (repurchase) is entitled to be reimbursed by the purchasing authority the proper amount of—
  - (a) expenses in respect of legal services provided in connection with the authority's acquisition, and
  - (b) other expenses in connection with negotiating the terms of that acquisition,being in each case expenses which are reasonably incurred by him after receipt of a notice under paragraph 3 of that Schedule (authority's notice of proposed terms of acquisition).
- (2) An agreement between a person and the purchasing authority is void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the authority in connection with the exercise by him of his rights under this Part.

**Status:**

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