

Status: Point in time view as at 25/09/1991. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Housing Act 1985, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 August 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)

SCHEDULES

SCHEDULE 5

EXCEPTIONS TO THE RIGHT TO BUY

Charities

- 1 The right to buy does not arise if the landlord is a housing trust or a housing association and is a charity.

Certain housing associations

- 2 The right to buy does not arise if the landlord is a co-operative housing association.
- 3 The right to buy does not arise if the landlord is a housing association which at no time received a grant under—
any enactment mentioned in paragraph 2 of Schedule 1 to the Housing Associations Act 1985 (grants under enactments superseded by the ^{M1}Housing Act 1974),
section 31 of the ^{M2}Housing Act 1974 (management grants),
section 41 of the ^{M3}Housing Associations Act 1985 (housing association grants),
section 54 of that Act (revenue deficit grants),
section 55 of that Act (hostel deficit grants), . . . ^{F1}
section 58(2) of that Act (grants by local authorities).
[^{F2}section 50 of the Housing Act 1988 (housing association grants), or section 51 of that Act (revenue deficit grants).]

Textual Amendments

- F1** Word repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#)
- F2** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 66](#)

Marginal Citations

- M1** 1974 c. 44.
- M2** 1974 c. 44.
- M3** 1985 c. 69.

Landlord with insufficient interest in the property

- 4 The right to buy does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of this Part for—
(a) where the dwelling-house is a house, a term exceeding 21 years, or

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(b) where the dwelling-house is a flat, a term of not less than 50 years, commencing, in either case, with the date on which the tenant’s notice claiming to exercise the right to buy is served.

Dwelling-houses let in connection with employment

- 5 (1) The right to buy does not arise if the dwelling-house—
 - (a) forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
 - (b) was let to a tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord or of—
 - a local authority,
 - a new town corporation,
 - [^{F3}a housing action trust]
 - the Development Board for Rural Wales,
 - an urban development corporation, or
 - the governors of an aided school.
- (2) In sub-paragraph (1)(a) “housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes.

Textual Amendments
F3 Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 83\(6\)\(d\)](#)

Certain dwelling-houses for the disabled

6 **F4**

Textual Amendments
F4 [Sch. 5 paras. 6, 8](#) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), [ss. 123\(2\)\(3\), 140\(2\)](#), [Sch. 18](#) (with a saving in [s.123\(3\)](#))

7 The right to buy does not arise if the dwelling-house has features which are substantially different from those of ordinary dwelling-houses and are designed to make it suitable for occupation by physically disabled persons, and—

- (a) it is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by physically disabled persons, and
- (b) a social service or special facilities are provided in close proximity to the group of dwelling-houses wholly or partly for the purpose of assisting those persons.

8 **F5**

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Textual Amendments

F5 Sch. 5 paras. 6, 8 repealed by Housing Act 1988 (c. 50, SIF 61), ss. 123(2)(3), 140(2), Sch. 18 (with a saving in s.123(3))

- 9 (1) The right to buy does not arise if—
- (a) the dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who are suffering or have suffered from a mental disorder, and
 - (b) a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.
- (2) In sub-paragraph (1)(a) “mental disorder” has the same meaning as in the ^{M4}Mental Health Act 1983

Marginal Citations

M4 1983 c. 20.

Certain dwelling-houses for persons of pensionable age

- 10 (1) The right to buy does not arise if the dwelling-house is one of a group of dwelling-houses—
- (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by persons of pensionable age, and
 - (b) which it is the practice of the landlord to let for occupation by persons of pensionable age, or for occupation by such persons and physically disabled persons,
- and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.
- (2) The facilities referred to above are facilities which consist of or include—
- (a) the services of a resident warden, or
 - (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.
- [^{F6}11 (1) The right to buy does not arise if the Secretary of State has determined, on the application of the landlord, that it is not to be capable of being exercised with respect to the dwelling-house.
- (2) The Secretary of State shall so determine if, and only if, he is satisfied that the dwelling-house—
- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by persons of pensionable age, and
 - (b) was let to the tenant or a predecessor in title of his for occupation by a person of pensionable age (whether the tenant or predecessor or another person).

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- (3) The Secretary of State shall for the purposes of this paragraph disregard the presence of any feature provided by the tenant or a predecessor in title of his.
- (4) An application for a determination under this paragraph shall be made within the period for service of the landlord's notice under section 124 (notice admitting or denying right to buy).
- (5) This paragraph does not apply unless the dwelling-house concerned was first let before 1st January 1990.]

Textual Amendments

- F6** Sch. 5 para. 11 substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 164(1)(2)(3)

Dwelling-houses held on Crown tenancies

- 12 (1) The right to buy does not arise if the dwelling-house is held by the landlord on a tenancy from the Crown, unless—
- (a) the landlord is entitled to grant a lease in pursuance of this Part without the concurrence of the appropriate authority, or
 - (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.
- (2) In this paragraph “tenancy from the Crown” means a tenancy of land in which there is a Crown interest superior to the tenancy, and “Crown interest” and “appropriate authority” mean respectively—
- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
 - (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
 - (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
 - (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.
- (3) Section 179(1) (which renders ineffective certain provisions restricting the grant of leases under this Part) shall be disregarded for the purposes of sub-paragraph (1)(a).

VALID FROM 18/01/2004

Dwelling-house due to be demolished within 24 months

- 13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.

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- (2) A “final demolition notice” is a notice—
- (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
 - (b) setting out the reasons why the landlord intends to demolish the relevant premises,
 - (c) specifying—
 - (i) the date by which he intends to demolish those premises (“the proposed demolition date”), and
 - (ii) the date when the notice will cease to be in force (unless extended under paragraph 15),
 - (d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and
 - (e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.
- (3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—
- (a) that that claim ceases to be effective on the notice coming into force, but
 - (b) that section 138C confers a right to compensation in respect of certain expenditure,
- and the notice shall also give details of that right to compensation and of how it may be exercised.
- (4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.
- (5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—
- (a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and
 - (b) the provisions of paragraph 15(1) to (7).
- (6) If—
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
 - (b) the landlord intends to demolish the whole of the building,
- the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as “the occupier”).
- An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.
- (7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—
- (a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and
 - (b) in any newspaper published by the landlord, and
 - (c) on the landlord’s website (if he has one).

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(8) The notice mentioned in sub-paragraph (7) must contain the following information—

- (a) sufficient information to enable identification of the premises that the landlord intends to demolish;
- (b) the reasons why the landlord intends to demolish those premises;
- (c) the proposed demolition date;
- (d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;
- (e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;
- (f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.

(9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.

[^{F7}14] (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.

(2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.

(3) Condition B is that—

- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but
- (b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.

(4) Condition C is that—

- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and
- (b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but
- (c) in each case arrangements for their acquisition are in place.

(5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—

- (a) an agreement under which the landlord is entitled to acquire the premises is in force, or
- (b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or
- (c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.

(6) In this paragraph—

“premises” means premises of any description;

“scheme” includes arrangements of any description.

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Textual Amendments

F7 Sch. 5 paras. 13-16 and preceding cross-heading inserted (18.1.2004) by [Housing Act 2004 \(c. 34\)](#), ss. 182, 270(3)(a)

- 15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.
- (2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such requirements relating to the service of further notices as are specified in the direction.
- (3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).
- (4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice (“a revocation notice”) on the tenant which informs him—
- (a) of the landlord’s decision, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- (5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice (“a revocation notice”) on the tenant which informs him—
- (a) of the Secretary of State’s conclusion, and
 - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- Section 169 applies in relation to the Secretary of State’s power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.
- (6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State’s intention to serve the revocation notice.
- (7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.
- (8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless—
- (a) it is served with the consent of the Secretary of State, and
 - (b) it states that it is so served.
- (9) The Secretary of State’s consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

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VALID FROM 22/09/2008

- [^{F8}15A
- (1) This paragraph applies if—
 - (a) a final demolition notice is in force in respect of a dwelling-house, and
 - (b) the landlord transfers his interest as landlord to another person.
 - (2) The final demolition notice (“the original notice”) continues in force but this is subject to—
 - (a) paragraphs 13(5) and 15, and
 - (b) the following provisions of this paragraph.
 - (3) Sub-paragraph (4) applies if the transferee—
 - (a) intends to demolish the dwelling-house, but
 - (b) has not—
 - (i) served a continuation notice, and
 - (ii) complied with the conditions in sub-paragraphs (8) and (10), within the period of 2 months beginning with the date of transfer.
 - (4) The transferee must proceed under paragraph 15(4) as if the transferee has decided not to demolish the dwelling-house (and paragraph 15(5) to (7) applies on the same basis).
 - (5) A continuation notice is a notice—
 - (a) stating that the transferee—
 - (i) has acquired the interest concerned, and
 - (ii) intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
 - (b) setting out the reasons why the transferee intends to demolish the relevant premises,
 - (c) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the original notice (specifying the condition concerned),
 - (d) stating that the original notice is to continue in force, and
 - (e) explaining the continued effect of the original notice.
 - (6) A continuation notice may not vary the proposed demolition date in the original notice nor the date when the original notice will cease to be in force.
 - (7) Sub-paragraph (8) applies if—
 - (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
 - (b) the transferee intends to demolish the whole of the building.
 - (8) The transferee must serve a continuation notice on the occupier of each of the dwelling-houses contained in the building (whether addressed to him by name or just as “the occupier”).
 - (9) An accidental omission to serve a continuation notice on one or more occupiers does not prevent the condition in sub-paragraph (8) from being satisfied.
 - (10) Paragraph 13(7) and (8) apply in relation to the transferee's intention to demolish so as to impose a condition on the transferee for a notice to appear within the period of 2 months beginning with the date of transfer.

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(11) Sub-paragraphs (7) to (10) above apply instead of paragraph 13(6) to (8) in relation to a final demolition notice so far as continued in force under this paragraph.]]

Textual Amendments

- F7** Sch. 5 paras. 13-16 and preceding cross-heading inserted (18.1.2004) by [Housing Act 2004 \(c. 34\)](#), ss. 182, 270(3)(a)
- F8** Sch. 5 para. 15A inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 305, 325(2), [Sch. 13 para. 4](#) (with [Sch. 13 para. 14](#))

- 16 (1) Any notice under paragraph 13 or 15 may be served on a person—
- (a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.
- (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—
- (a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and
 - (b) in any other case, the last known address of that person.

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