

*Status: Point in time view as at 18/11/2004.*

*Changes to legislation: Housing Act 1996, Cross Heading: Control by Relevant Authority of land transactions is up to date with all changes known to be in force on or before 13 June 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)*



# Housing Act 1996

## 1996 CHAPTER 52

### PART I

#### SOCIAL RENTED SECTOR

### CHAPTER II

#### DISPOSAL OF LAND AND RELATED MATTERS

#### *Control by <sup>[F1]</sup>Relevant Authority] of land transactions*

#### Textual Amendments

**F1** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

(1) The consent of the <sup>[F2]</sup>Relevant Authority]. . ., is required for any disposal of land by a registered social landlord under section 8.

<sup>[F3]</sup>(1A) The consent—

- (a) if given by the Housing Corporation, shall be given by order under its seal, and
- (b) if given by the Secretary of State, shall be given by order in writing.]

(2) The consent of the <sup>[F2]</sup>Relevant Authority] may be so given—

- (a) generally to all registered social landlords or to a particular landlord or description of landlords;
- (b) in relation to particular land or in relation to a particular description of land, and may be given subject to conditions.

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- (3) Before giving any consent other than a consent in relation to a particular landlord or particular land, the [<sup>F2</sup>Relevant Authority] shall consult such bodies representative of registered social landlords as it thinks fit.
- (4) A disposal of a house by a registered social landlord made without the consent required by this section is void unless—
  - (a) the disposal is to an individual (or to two or more individuals),
  - (b) the disposal does not extend to any other house, and
  - (c) the landlord reasonably believes that the individual or individuals intend to use the house as their principal dwelling.
- (5) Any other disposal by a registered social landlord which requires consent under this section is valid in favour of a person claiming under the landlord notwithstanding that that consent has not been given; and a person dealing with a registered social landlord, or with a person claiming under such a landlord, shall not be concerned to see or inquire whether any such consent has been given.
- (6) Where at the time of its removal from the register of social landlords a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered social landlord.
- (7) For the purposes of this section “disposal” means sale, lease, mortgage, charge or any other disposition.
- (8) This section has effect subject to section 10 (lettings and other disposals not requiring consent of [<sup>F2</sup>Relevant Authority]).

#### Textual Amendments

- F2** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F3** S. 9(1A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 84(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

- C1** S. 9(6) extended (16.9.1996) by S.I. 1996/2402, **art. 3**, **Sch. para. 6**

#### Commencement Information

- I1** S. 9 wholly in force 1.10.1996; s. 9 not in force at Royal Assent see s. 232(1)-(3); s. 9(3) in force at 1.8.1996 by S.I. 1996/2048, **art. 2**, and s. 9 in force at 1.10.1996 to the extent it is not already in force by S.I. 1996/2402, **art. 3** (subject to the transitional provisions and savings in the Sch. to that S.I.)

## 10 Lettings and other disposals not requiring consent of [<sup>F4</sup>Relevant Authority].

- (1) A letting by a registered social landlord does not require consent under section 9 if it is—
  - (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), of Schedule 1 to the <sup>M1</sup>Housing Act 1988, or
  - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the <sup>M2</sup>Housing Act 1985.

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- (2) Consent under section 9 is not required in the case of a disposal to which section 81 or 133 of the Housing Act 1988 applies (certain disposals for which the consent of the Secretary of State is required).
- (3) Consent under section 9 is not required for a disposal under Part V of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 below (the right to acquire).

#### Textual Amendments

**F4** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C2** S. 10 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

#### Marginal Citations

**M1** 1988 c. 50.

**M2** 1985 c. 68.

## 11 Covenant for repayment of discount on disposal.

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the [<sup>F5</sup>Relevant Authority] under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.
- (2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal then only on the first of them), an amount equal to the discount reduced by one-third for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.
- (3) The liability that may arise under the covenant is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

<sup>F6</sup>(4) .....

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

#### Textual Amendments

**F5** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

**F6** S. 11(4) repealed (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 13** (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2(1)**

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

C3 S. 11 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, 11

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

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

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

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

- (3) The registered social landlord may at any time by notice served on an approved lending institution postpone the charge taking effect by virtue of section 11 to an advance or further advance which—
- (a) is made to the purchaser by that institution, and
  - (b) is secured by a legal charge not having priority to that charge;
- and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.
- (4) The covenant required by section 11 does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of that section, or a person deriving title under him.

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

- (5) In this section “approved lending institution” means—
- (a) a building society, bank, insurance company or friendly society,
  - (b) the [<sup>F7</sup>Relevant Authority], or
  - (c) any body specified, or of a class or description specified, in an order made under section 156 of the <sup>M3</sup>Housing Act 1985 (which makes corresponding provision in relation to disposals in pursuance of the right to buy).
- (6) The following are “approved purposes” for the purposes of this section—
- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
    - (i) the cost of any works to the house,
    - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
    - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and

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- (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—
- (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of section 11,
  - (ii) any arrears of interest on such an advance or further advance, and
  - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

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

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

#### Textual Amendments

**F7** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C4** S. 12 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. paras. 1, 11**

#### Marginal Citations

**M3** 1985 c. 68.

### [<sup>F8</sup>12A Right of first refusal for registered social landlord

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, 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, grant or assignment is made.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a registered social landlord which has made a disposal as mentioned in subsection (1), 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 12B.

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- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the purchaser 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 purchaser 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 purchaser 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 purchaser is a reference to the purchaser or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) 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.
- (9) The limitation imposed by a covenant within subsection (2) is a local land charge.
- (10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.
- (11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
- (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant ceases to apply in relation to the property disposed of.

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#### Textual Amendments

**F8** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by [Housing Act 2004 \(c. 34\)](#), **ss. 200(1)**, 270(2)(b), (3)(a) (with s. 200(3))

### 12B Consideration payable for disposal under section 12A

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(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 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, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 11 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under section 12A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, 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.
- (4) Where there is a charge on the 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 (as determined in accordance with regulations under section 12A).]

#### Textual Amendments

**F8** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by [Housing Act 2004 \(c. 34\)](#), **ss. 200(1)**, 270(2)(b), (3)(a) (with s. 200(3))

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

- (1) On the disposal by a registered social landlord, in accordance with a consent given by the [<sup>F9</sup>Relevant Authority] under section 9, of a house situated in—
  - (a) a National Park,
  - (b) an area designated under [<sup>F10</sup>section 82 of the Countryside and Rights of Way Act 2000] as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 of the <sup>M4</sup>Housing Act 1985,

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

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- (2) The limitation is that until such time (if any) as may be notified in writing by the registered social landlord to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord.
- (3) That consent shall not be withheld if the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—
- (a) had his place of work in a region designated by order under section 157(3) of the Housing Act 1985 which, or part of which, is comprised in the National Park or area concerned, or
  - (b) had his only or principal home in such a region,
- or if he has had the one in part or parts of that period and the other in the remainder.
- The region need not have been the same throughout the period.
- (4) A disposal in breach of such a covenant as is mentioned above is void.
- (5) The limitation imposed by such a covenant is a local land charge and, <sup>[F11]</sup>if the first disposal involves registration under the Land Registration Act 2002, the Chief Land Registrar shall enter in the register of title a restriction reflecting the limitation].
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.
- (7) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.), any such covenant as is mentioned in this section ceases to apply in relation to the property disposed of.

#### Textual Amendments

- F9** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F10** Words in s. 13(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. 14; S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F11** Words in s. 13(5) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 35** (with s. 129); S.I. 2003/1725, art. 2(1)

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

- C5** S. 13 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, **11**

#### Marginal Citations

- M4** 1985 c. 68.

## 14 Treatment of options.

- (1) For the purposes of sections 9 to 13 the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.



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- (2) For the purposes of section 13(2) (requirement of consent to disposal of house in National Park, &c.) consent to such a grant shall be treated as consent to a disposal made in pursuance of the option.

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

C6 S. 14 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, 11

## 15 Relevant and exempted disposals.

- (1) In sections 11 to 14 the expression “relevant disposal which is not an exempted disposal” shall be construed as follows.
- (2) A disposal, whether of the whole or part of the house, is a relevant disposal if it is—
- a conveyance of the freehold or an assignment of the lease, or
  - the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack-rent.
- (3) For the purposes of subsection (2)(b) it shall be assumed—
- 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
  - that any option to terminate a lease or sub-lease is not exercised.
- (4) A disposal is an exempted disposal if—
- it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (5));
  - it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (6);
  - it is a compulsory disposal (as defined in subsection (7));
  - the property disposed of is a yard, garden, outhouses or appurtenances belonging to a house or usually enjoyed with it.
- (5) For the purposes of subsection (4)(a) a person is a qualifying person in relation to a disposal if—
- he is the person or one of the persons by whom the disposal is made,
  - he is the spouse or a former spouse of that person or one of those persons, or
  - he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.
- (6) The orders referred to in subsection (4)(c) are orders under—
- section 24 or 24A of the <sup>M5</sup>Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings);
  - section 2 of the <sup>M6</sup>Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);

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- (c) section 17 of the <sup>M7</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.); or
  - (d) paragraph 1 of Schedule 1 to the <sup>M8</sup>Children Act 1989 (orders for financial relief against parents).
- (7) For the purposes of subsection (4)(d) a compulsory disposal is a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

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

**C7** S. 15 extended (16.9.1996) by [S.I. 1996/2402, art. 3](#), Sch. paras. 1, 11

**Marginal Citations**

**M5** 1973 c. 18.  
**M6** 1975 c. 63.  
**M7** 1984 c. 42.  
**M8** 1989 c. 41.

**[<sup>F12</sup>15A Treatment of deferred resale agreements for purposes of section 11**

- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 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 purchaser or his successor in title and any other person—
  - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal which is not 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 relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that 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);

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- (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 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section).]

#### **Textual Amendments**

**F12** S. 15A inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by [Housing Act 2004 \(c. 34\)](#), **ss. 201(1)**, 270(2)(b), (3)(a) (with s. 201(2))

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