



Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 2

DISPOSALS ATTRACTING DISCOUNTS OTHER THAN UNDER RIGHT TO BUY

Disposals by local authorities

195 Repayment of discount: periods and amounts applicable

- (1) Section 35 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).
- (2) In subsection (2) for the words from “to pay to the authority” to the end of the subsection substitute “to the following effect.”
- (3) After subsection (2) insert—
 - “(3) The covenant shall be to pay to the authority such sum (if any) as the authority may demand in accordance with subsection (4) 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, grant or assignment.
 - (4) The authority may demand such sum as they consider appropriate, up to and including the maximum amount specified in this section.
 - (5) The maximum amount which may be demanded by the authority is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 32.

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- (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (7) Subsections (4) to (6) are subject to section 35A.”
- (4) The amendments made by this section do not apply in any case where—
 - (a) the purchaser has accepted an offer for the disposal of the house from the authority, or
 - (b) the authority has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions—
 - (a) section 35(2) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and
 - (b) any covenant for repayment of discount,
 any reference (however expressed) to a person being liable to pay an amount to the authority on demand is to be read as a reference to his being liable to pay to the authority so much of that amount (if any) as the authority may demand.
- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 35 of that Act.

196 Repayment of discount: increase attributable to home improvements to be disregarded

After section 35 of the Housing Act 1985 insert—

“35A Increase in value of house attributable to home improvements

- (1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
 - (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance, grant or assignment 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.”

197 Local authority’s right of first refusal

- (1) After section 36 of the Housing Act 1985 (c. 68) insert—

“36A Right of first refusal for local authority

- (1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.
- (2) On the disposal the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (3) 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.
- (4) In subsection (3) “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.
- (5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a local authority which have 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 (6) made to them or him for such consideration as is mentioned in section 36B.
- (6) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the house; and
 - (b) a surrender or assignment of the lease.
- (7) 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;

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- (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.
- (8) In subsection (7) 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 (5).
- (9) 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.
- (10) The limitation imposed by a covenant within subsection (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

36B Consideration payable for disposal under section 36A

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 36A(5) 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 35 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under section 36A, 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 36A).”

- (2) In section 33(2) of the Housing Act 1985 (c. 68) (covenants and conditions which may be imposed), after “But” insert “, subject to sections 36A and 37.”
- (3) In section 37(1) of that Act (restriction on disposal of dwelling-houses in National Parks etc.), after “restriction on assignment” insert “or a covenant as mentioned in section 36A(3) (right of first refusal for local authority)”.
- (4) In section 41 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—
 - “(aa) the covenant required by section 36A (right of first refusal for local authority) 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”.
- (5) The amendments made by this section do not apply in relation to a disposal under section 32 of that Act if—
 - (a) the purchaser has accepted an offer for the disposal of the house from the authority, or
 - (b) the authority has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.

198 Deferred resale agreements

- (1) After section 39 of the Housing Act 1985 insert—

“39A Treatment of deferred resale agreements for purposes of section 35

- (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 35 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, under section 32,
 - (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)—

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- (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);
 - (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 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3) (depending on whether an offer such as is mentioned in section 195(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).”
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

Disposals by registered social landlords

199 Repayment of discount: periods and amounts payable

- (1) For section 11 of the Housing Act 1996 (c. 52) substitute—

“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 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 such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.
- (3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

- (4) 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 percentage discount given to the purchaser in respect of the disposal of the house by the landlord.
- (5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (6) Subsections (3) to (5) are subject to section 11A.

11A Increase in value of house attributable to home improvements to be disregarded

- (1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
 - (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance, grant or assignment 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.

11B Liability to repay is a charge on the house

- (1) The liability that may arise under the covenant required by section 11 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) 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, etc.)—
 - (a) the covenant required by section 11 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 cease to apply in relation to the property disposed of.”
- (2) In section 12, for “section 11” in each place where it occurs substitute “section 11B”.
- (3) The amendments made by this section do not apply in any case where—
 - (a) the purchaser has accepted an offer for the disposal of the house from the landlord, or

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- (b) the landlord has accepted an offer for the disposal of the house from the purchaser,
before the day on which this section comes into force.
- (4) Subsection (5), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (5) In the following provisions—
 - (a) section 11(2) of the Housing Act 1996 (c. 52) (as it has effect without the amendments made by this section), and
 - (b) any covenant for repayment of discount,
any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.
- (6) In subsections (4) and (5) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 11 of that Act.

200 Registered social landlord’s right of first refusal

- (1) After section 12 of the Housing Act 1996 insert—

“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.
- (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.

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

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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).”
- (2) In section 13(1) of the Housing Act 1996 (c. 52) (restriction on disposal of houses in National Parks, &c), after “restriction on assignment” insert “or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord)”.
 - (3) The amendments made by this section do not apply in relation to a disposal under section 8 of that Act if—
 - (a) the purchaser has accepted an offer for the disposal of the house from the landlord, or
 - (b) the landlord has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.

201 Deferred resale agreements

- (1) After section 15 of the Housing Act 1996 insert—

“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.

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- (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);
 - (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).”
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

202 Right of assured tenant to acquire dwelling not affected by collective enfranchisement

- (1) Section 16 of the Housing Act 1996 (c. 52) (right of assured tenant of registered social landlord to acquire dwelling) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement).”

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- (3) The amendment made by subsection (2) applies in relation to the right conferred by section 16 as follows—
- (a) it applies for the purposes of any exercise of that right on or after the day on which this section comes into force, and
 - (b) it so applies whether the lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 was granted on or after that day or before it.

Disposals by housing action trusts

203 Repayment of discount: periods and amounts payable

- (1) Schedule 11 to the Housing Act 1988 (c. 50) (provisions applicable to certain disposals of houses) is amended as follows.
- (2) In paragraph 1(2) for the words from “to pay to the housing action trust” to the end of the sub-paragraph substitute “to the following effect.”
- (3) After paragraph 1(2) insert—
 - “(3) The covenant shall be to pay to the housing action trust such sum (if any) as the trust may demand in accordance with sub-paragraph (4) 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, grant or assignment.
 - (4) The trust may demand such sum as it considers appropriate, up to and including the maximum amount specified in this paragraph.
 - (5) The maximum amount which may be demanded by the trust is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 79.
 - (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the trust is reduced by one-fifth.
 - (7) Sub-paragraphs (4) to (6) are subject to paragraph 1A.

Increase in value of house attributable to home improvements

- 1A (1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
- (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance, grant or assignment and before the disposal, shall be disregarded.
- (2) The amount to be disregarded under this paragraph 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 paragraph to make a determination for the purposes of this paragraph 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 paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph.”
- (4) The amendments made by this section do not apply in any case where—
- (a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or
 - (b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force.
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions—
- (a) paragraph 1(2) of Schedule 11 to the Housing Act 1988 (c. 50) (as it has effect without the amendments made by this section), and
 - (b) any covenant for repayment of discount,
- any reference (however expressed) to a person being liable to pay an amount to the housing action trust on demand is to be read as a reference to his being liable to pay to the trust so much of that amount (if any) as the trust may demand.
- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with paragraph 1 of Schedule 11 to that Act.

204 Housing action trust’s right of first refusal

- (1) After paragraph 2 of Schedule 11 to the Housing Act 1988 insert—

“Right of first refusal for housing action trust

- 2A (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.
- (2) On the disposal, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (3) 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

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prescribed conditions have been satisfied in relation to that or a previous such disposal.

(4) In sub-paragraph (3) “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.

(5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—

- (a) a housing action trust which has made a disposal as mentioned in sub-paragraph (1), or
- (b) such other person as is determined in accordance with the regulations,

a right of first refusal to have a disposal within sub-paragraph (6) made to him for such consideration as is mentioned in paragraph 2B.

(6) The disposals within this sub-paragraph are—

- (a) a reconveyance or conveyance of the house; and
- (b) a surrender or assignment of the lease.

(7) Regulations under this paragraph 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.

(8) In sub-paragraph (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that sub-paragraph affects the generality of sub-paragraph (5).

(9) Regulations under this paragraph—

- (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.
- (10) The limitation imposed by a covenant within sub-paragraph (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

Consideration payable for disposal under paragraph 2A

- 2B
- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in paragraph 2A(5) 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 paragraph).
 - (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 paragraph 1 (repayment of discount on early disposal) would be discharged by the vendor.
 - (3) If the offer is accepted in accordance with regulations under paragraph 2A, no payment shall be required in pursuance of any such covenant as is mentioned in sub-paragraph (2), but the consideration shall be reduced, subject to sub-paragraph (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 sub-paragraph (2), the consideration shall not be reduced under sub-paragraph (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 paragraph 2A)."
- (2) In paragraph 6 of Schedule 11 to that Act (exempted disposals ending obligation under covenants), at the end of paragraph (b) insert "and
- (c) the covenant required by paragraph 2A above is not binding on the person to whom the disposal is made or any successor in title of his; and
 - (d) that covenant ceases to apply in relation to the property disposed of."
- (3) The amendments made by this section do not apply in relation to a disposal under section 79 of that Act if—
- (a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or
 - (b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force.

205 Deferred resale agreements

(1) After paragraph 7 of Schedule 11 to the Housing Act 1988 (c. 50) insert—

“Treatment of deferred resale agreements

- 8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In sub-paragraph (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 sub-paragraph 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, under section 79,
 - (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 sub-paragraph (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 sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);
 - (b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under sub-paragraph (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 paragraph—
- “agreement” includes arrangement;
- “the discount repayment period” means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3) (depending on whether an offer such as is mentioned in

section 203(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).”

- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.