



Housing Defects Act 1984

1984 CHAPTER 50

Forms of assistance

9 Rights of pre-emption etc.

- (1) This section applies in any case where (apart from this section)—
 - (a) a person (in this section referred to as " the owner ") is entitled to assistance by way of repurchase in respect of a defective dwelling, and
 - (b) there is a covenant relating to his interest in the defective dwelling whereby—
 - (i) before disposing of the interest he must offer to dispose of it to a public sector authority, or
 - (ii) where, in the case of a leasehold interest, he may require a public sector authority being his landlord to accept a surrender of the lease, he is otherwise prohibited from disposing of it.
- (2) If the public sector authority concerned are the appropriate authority, the covenant shall be disregarded for all purposes in relation to anything done by the owner in pursuance of the rights conferred on him by section 6 of and Schedule 2 to this Act.
- (3) If the public sector authority concerned are not the appropriate authority, then—
 - (a) so long as the condition mentioned in subsection (1)(b) above applies, the owner is not to be treated for the purposes of section 6 of this Act as entitled to assistance by way of repurchase, and
 - (b) if the owner disposes of his interest to the public sector authority in pursuance of the covenant or lease, as the case may be, and the interest acquired by that authority on the disposal subsists only in the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or any part of it, the owner is entitled, subject to subsection (6) below, to be paid by the 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 defect-free value is 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; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- in subsection (3)(b) above and this subsection, " the consideration for the disposal" means, where the consideration for the disposal is required to be reduced by any amount under section 19(7) of the 1980 Act or any provision to the like effect, the aggregate of the consideration for the disposal (after that reduction) and that amount.
- (5) If the public sector authority concerned are not the appropriate authority and the condition in subsection (3)(b) above is satisfied, section 10 of this Act shall apply in the case of the owner—
- (a) as if the public sector authority were the appropriate authority and the interest acquired had been acquired by the authority in pursuance of section 6 of this Act,
 - (b) as if the reference in subsection (7) to the service of a copy agreement were a reference to the time of disposal, and
 - (c) where the public sector authority are not one of the bodies mentioned in section 26(7) of this Act, with the modifications set out in section 26(8) of this Act.
- (6) A housing authority are not required to make a payment to any person under this section unless he makes a written application to them for the payment before the end of the period of two years beginning with the time of disposal.
- (7) Where a housing authority refuse an application for a payment under this section they shall give to the owner a notice in writing stating their reasons for doing so.
- (8) Any question arising under this section as to defect-free value shall be determined by the district valuer if the owner or the housing authority so require by notice in writing served on the district valuer.
- (9) Before making a determination in pursuance of subsection (8) above, 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.
- (10) A person serving a notice on the district valuer under subsection (8) above shall serve notice in writing of that fact on the authority or, as the case may be, the owner.
- (11) In this section—
- " district valuer " has the same meaning as in paragraph 3(1) of Schedule 2 to this Act;
 - " housing authority ", in relation to a defective dwelling, means the housing authority in whose area the dwelling is situated; and references to the owner include a reference to his personal representatives.
- (12) This section applies to Scotland as if—
- (a) the references to a covenant were references to a condition in the title to the defective dwelling;
 - (b) in subsections (2), (3)(a) and (5)(a), for " section 6 " there were substituted " section 7 ";
 - (c) in subsection (3)(b), for " appurtenances occupied with and used for the purposes of the dwelling or any part of it" there were substituted " pertinents belonging to or usually enjoyed with the dwelling or any part of it "; and
 - (d) in subsection (5)(b), for " a copy agreement" there were substituted " an offer to purchase ".