



# Housing Act 1985

## 1985 CHAPTER 68

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An Act to consolidate the Housing Acts (except those provisions consolidated in the Housing Associations Act 1985 and the Landlord and Tenant Act 1985), and certain related provisions, with amendments to give effect to recommendations of the Law Commission. [30th October 1985]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Editorial Information

- X1** A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.

### Modifications etc. (not altering text)

- C1** Act amended by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), **s. 2(3)**  
Act amended (1.4.1996) by [S.I. 1996/593, reg. 2, Sch. 1](#)  
Act amended (24.9.1996) by [1996 c. 52, ss. 221\(a\), 232\(2\)](#)
- C2** By [Housing Act 1986 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 para. 106** it is provided that for the words "Housing Corporation" in each place where they occur there shall be substituted "Corporation"
- C3** Act modified by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(2), **Sch. 4 para. 3(5)**  
Act modified (1.10.1997) by [1996 c. 27, s. 30\(4\)\(b\)](#) (with [Sch. 9 paras. 8-10](#)); [S.I. 1997/1892, art. 3\(1\)\(a\)](#)
- C4** Act applied by [Housing Associations Act 1985 \(c. 69, SIF 61\)](#), **s. 34(2)**
- C5** Act applied by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), **s. 157(2)**  
Act applied (1.4.1996 with application in relation only to energy conservation authorities whose areas are in England and 1.4.1997 for those in Wales) by [1995 c. 10, s. 1\(2\)\(a\)](#); [S.I. 1995/3340, arts. 2\(1\), 3](#); [S.I. 1996/3181, arts. 2, 3](#)  
Act applied (1.10.1996) by [1996 c. 52, s. 217\(3\)\(a\)](#); [S.I. 1996/2402, art. 3](#) (subject to transitional provisions and savings in [Sch.](#))

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- C6** Act: definition of "local authority" applied (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45, SIF 86), ss. 14(1)(a), 23(1), **Sch. 5 para.1** (with s. 37(4), Sch. 7); S.I. 1991/2508, **art. 2**
- C7** Act restricted (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 6(1)(a)** (with Sch. 1 para. 8); S.I. 1993/1655, **art. 2**.
- C8** Act to be construed with 1996 c. 52 Pt. VII (20.1.1997) by 1996 c. 52, **s. 216(1)**; S.I. 1996/2959, **art. 2** (subject to transitional provision in Sch. para. 1)
- C9** Act: certain functions of a Minister of the Crown transferred to the National Assembly for Wales (1.7.1999) by S.I. 1999/672, **art. 2, Sch. 1** (as amended (28.3.2003) by S.I. 2003/940, **art. 3**)
- C10** Act modified (1.12.2008) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2008 (S.I. 2008/3002), arts. 1(2)(3), **7** (with Sch. 2); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

## PART I

### INTRODUCTORY PROVISIONS

#### *Local housing authorities*

#### **1 Local housing authorities.**

In this Act “local housing authority” means a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.

#### **2 The district of a local housing authority**

- (1) References in this Act to the district of a local housing authority are to the area of the council concerned, that is, to the district, London borough, the City of London or the Isles of Scilly, as the case may be.
- (2) References in this Act to “the local housing authority”, in relation to land, are to the local housing authority in whose district the land is situated.

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

- C11** S. 2 applied by Housing Act 1988 (c. 50, SIF 61), **s. 92(1)(d)**

#### **3 Buildings situated in more than one district.**

- (1) Where a building is situated partly in the district of one local housing authority and partly in the district of another, the authorities may agree that—
  - (a) the building, or
  - (b) the building, its site and any yard, garden, outhouses and appurtenances belonging to the building or usually enjoyed with it,
 shall be treated for the purposes of the enactments relating to housing as situated in such one of the districts as is specified in the agreement.
- (2) Whilst the agreement is in force the enactments relating to housing have effect accordingly.

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### Other authorities and bodies

## 4 Other descriptions of authority.

In this Act—

- (a) “housing authority” means a local housing authority, a new town corporation or the Development Board for Rural Wales;
- (b) “new town corporation” means a development corporation or the Commission for the New Towns;
- (c) “development corporation” means a development corporation established by an order made, or having effect as if made, under the<sup>M1</sup>New Towns Act 1981;
- (d) “urban development corporation” means an urban development corporation established under Part XVI of the<sup>M2</sup>Local Government, Planning and Land Act 1980;
- (e) “local authority” means a county, district or London borough council, the Common Council of the City of London or the Council of the Isles of Scilly [<sup>F1</sup>, in sections 43, 44 and 232 includes the Broads Authority], and in sections 45(2)(b), 50(2), 51(6), 80(1), 157(1), 171(2), 438, 441, 442, 443, [<sup>F2</sup>444(4), 452(2), 453(2)], [<sup>F3</sup>458], [<sup>F3</sup>460(3)], 573(1), paragraph 2(1) of Schedule 1, grounds 7 and 12 in Schedule 2, ground 5 in Schedule 3, paragraph 7(1) of Schedule 4, paragraph 5(1)(b) of Schedule 5 and Schedule 16 includes . . . <sup>F4</sup>[<sup>F5M3</sup>the Broads Authority] . . . <sup>F4</sup>a joint authority established by Part IV of the Local Government Act 1985.

[<sup>F6</sup>(f) “housing action trust” means a housing action trust established under Part III of the Housing Act 1988]

#### Textual Amendments

- F1** Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), s. 21, **Sch. 6 para. 25(a)**
- F2** “458” substituted (*prosp.*) for “444(4), 452(2), 453(2)” by Housing and Planning Act 1986 (c. 63, SIF 61), ss. 24(2), 57(2), **Sch. 5 Pt. II para. 20**
- F3** Number inserted by S.I. 1986/1, **art. 3(3)**
- F4** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F5** Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), s. 21, **Sch. 6 para. 25(b)**
- F6** S. 4(f) added by Housing Act 1988 (c. 50, SIF 61), **s. 62(7)**

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

- C12** S. 4(e) extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(x)**

#### Marginal Citations

- M1** 1981 c. 64.
- M2** 1980 c. 65.
- M3** 1985 c.51 (81:1).

## 5 Housing associations.

- (1) In this Act “housing association” means a society, body of trustees or company—
  - (a) which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or

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- facilitating or encouraging the construction or improvement of, housing accommodation, and
- (b) which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Treasury, whether with or without differentiation as between share and loan capital.
- (2) In this Act “fully mutual”, in relation to a housing association, means that the rules of the association—
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and
- (b) preclude the granting or assignment of tenancies to persons other than members;
- and “co-operative housing association” means a fully mutual housing association which is a society registered under the <sup>M4</sup>Industrial and Provident Societies Act 1965.
- (3) In this Act “self-build society” means a housing association whose object is to provide, for sale to, or occupation by, its members, dwellings built or improved principally with the use of its members’ own labour.
- (4) References in this Act to registration in relation to a housing association are to registration under the <sup>M5</sup>Housing Associations Act 1985.

#### Marginal Citations

- M4** 1965 c. 12.  
**M5** 1985 c. 69.

## 6 Housing trusts.

In this Act “housing trust” means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds for charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation.

[<sup>F7</sup>6A

In this Act “the Corporation” has the meaning assigned by section 2A of the Housing Associations Act 1985.]

#### Textual Amendments

- F7** S. 6A inserted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), Sch. 17 para. 107

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### Supplementary provisions

#### 7 Index of defined expressions: Part I.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

district (of a local housing authority)	section 2(1)
local housing authority	section 1, 2(2)
tenancy and tenant	section 621

## PART II

### PROVISION OF HOUSING ACCOMMODATION

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

- C13** Pt. II (ss. 8–57): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. [65\(2\)\(a\)\(4\)](#)
- C14** Pt. II (ss. 8–57) restricted (19.8.1996) by [1996 c. 49, s. 9\(4\)\(a\)](#); S.I. 1996/2127, art. 2, [Sch. Pt. I](#)

#### *Main powers and duties of local housing authorities*

#### 8 Periodical review of housing needs.

- (1) Every local housing authority shall consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.
- (2) For that purpose the authority shall review any information which has been brought to their notice, including in particular information brought to their notice as a result of <sup>F8</sup>the consideration of the housing conditions in their district under section 605].

#### Textual Amendments

- F8** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 62](#)

#### 9 Provisions of housing accommodation.

- (1) A local housing authority may provide housing accommodation—
  - (a) by erecting houses, or converting buildings into houses, on land acquired by them for the purposes of this Part, or
  - (b) by acquiring houses.
- (2) The authority may alter, enlarge, repair or improve a house so erected, converted or acquired.

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- (3) These powers may equally be exercised in relation to land acquired for the purpose—
  - (a) of disposing of houses provided, or to be provided, on the land, or
  - (b) of disposing of the land to a person who intends to provide housing accommodation on it.
- (4) A local housing authority may not under this Part provide a cottage with a garden of more than one acre.
- [<sup>F9</sup>(5) Nothing in this Act shall be taken to require (or to have at any time required) a local housing authority itself to acquire or hold any houses or other land for the purposes of this Part.]

#### Textual Amendments

**F9** S. 9(5) added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 161(1)

### 10 Provision of furnishings and fittings.

- (1) A local housing authority may fit out, furnish and supply a house provided by them under this Part with all requisite furniture, fittings and conveniences.
- (2) A local housing authority may sell, or supply under a hire-purchase agreement or a conditional sale agreement, furniture to the occupants of houses so provided, and may for that purpose buy furniture.
- (3) In subsection (2) “conditional sale agreement” and “hire-purchase agreement” have the same meaning as in the <sup>M6</sup>Consumer Credit Act 1974.

#### Marginal Citations

**M6** 1974 c. 39.

### 11 Provision of board and laundry facilities.

- (1) A local housing authority may provide in connection with the provision of housing accommodation by them under this Part—
  - (a) facilities for obtaining meals and refreshments, and
  - (b) facilities for doing laundry and laundry services,
 such as accord with the needs of the persons for whom the housing accommodation is provided.
- (2) The authority may make reasonable charges for meals and refreshments provided by virtue of this section and for the use of laundry facilities or laundry services so provided.
- (3) A justices’ licence under the <sup>M7</sup>Licensing Act 1964 for the sale of intoxicating liquor in connection with the provision of facilities for obtaining meals and refreshments under this section shall only authorise the sale of such liquor for consumption with a meal.

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- (4) A local housing authority in carrying on activities under this section is subject to all relevant enactments and rules of law, including enactments relating to the sale of intoxicating liquor, in the same manner as other persons carrying on such activities.

#### Marginal Citations

M7 1964 c. 26

### [<sup>F10</sup>11A Provision of welfare services.

- (1) A local housing authority may provide in connection with the provision of housing accommodation by them (whether or not under this Part) such welfare services, that is to say, services for promoting the welfare of the persons for whom the accommodation is so provided, as accord with the needs of those persons.
- (2) The authority may make reasonable charges for welfare services provided by virtue of this section.
- (3) In this section “welfare services” does not include the repair, maintenance, supervision or management of houses or other property.
- (4) The powers conferred by this section shall not be regarded as restricting those conferred by section 137 of the Local Government Act 1972 (powers to incur expenditure for purposes not authorised by any other enactment) and accordingly the reference to any other enactment in subsection (1)(a) of that section shall not include a reference to this section.]

#### Textual Amendments

F10 S. 11A inserted (retrospectively to 1.4.1990) by 1993 c. 28, s. 126

### 12 Provision of shops, recreation grounds, etc.

- (1) A local housing authority may, with the consent of the Secretary of State, provide and maintain in connection with housing accommodation provided by them under this Part—
  - (a) buildings adapted for use as shops,
  - (b) recreation grounds, and
  - (c) other buildings or land which, in the opinion of the Secretary of State, will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.
- (2) The Secretary of State may, in giving his consent, by order apply, with any necessary modifications, any statutory provisions which would have been applicable if the land or buildings had been provided under any enactment giving a local authority powers for the purpose.
- (3) The power conferred by subsection (1) may be exercised either by the local housing authority themselves or jointly with another person.

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### **13 Provision of streets, roads and open spaces and development generally.**

- (1) A local housing authority may lay out and construct public streets or roads and open spaces on land acquired by them for the purposes of this Part.
- (2) Where they dispose of land to a person who intends to provide housing accommodation on it, they may contribute towards the expenses of the development of the land and the laying out and construction of streets on it, subject to the condition that the streets are dedicated to the public.

### **14 Exercise of powers by authority outside district.**

- (1) A local housing authority may, for supplying the needs of their district, exercise outside their district the powers conferred by sections 9 to 13 (provision of housing accommodation and related powers).
- (2) A district council shall before doing so give notice of their intention—
  - (a) to the council of the county in which their district is situated, and
  - (b) if they propose to exercise the power outside that county, to the council of the county in which they propose to exercise the power;
 but failure to give notice does not invalidate the exercise of the power.
- (3) Where housing operations under this Part are being carried out by a local housing authority outside their own district, the authority's power to execute works necessary for the purposes of, or incidental to the carrying out of, the operations, is subject to entering into an agreement with the council of the county, London borough or district in which the operations are being carried out, as to the terms and conditions on which the works are to be executed.
- (4) Where housing operations under this Part have been carried out by a local housing authority outside their own district, and for the purposes of the operations public streets or roads have been constructed and completed by the authority, the liability to maintain the streets or roads vests in the council which is the local highway authority for the area in which the operations were carried out unless that council are satisfied that the streets or roads have not been properly constructed.
- (5) Where a local housing authority carry out housing operations outside their own district, any difference arising between that authority and any authority in whose area the operations are carried out may be referred by either authority to the Secretary of State whose decision shall be final and binding on them.

#### *Powers of authorities in London*

### **15 Additional powers of authorities in London.**

- (1) A London borough council may provide and maintain in connection with housing accommodation provided by them under this Part buildings or parts of buildings adapted for use for any commercial purpose.
- (2) A local housing authority in Greater London may make arrangements for the rehousing of any person by another such authority; and the arrangements may include provision for the payment of contributions by the former authority to the latter.



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- (3) The council of an Inner London borough and the Common Council of the City of London may, for the purpose of facilitating the erection of houses in their district, suspend, alter or relax the provisions of any enactment or byelaw relating to the formation or laying out of new streets or the construction of sewers or of buildings intended for human habitation.
- (4) The powers conferred by subsections (1) and (3) are exercisable only with the consent of the Secretary of State.

## 16 Exercise of powers outside Greater London.

- (1) A local housing authority in Greater London shall not exercise any powers under this Part outside Greater London unless it appears to the Secretary of State, on an application by the authority, expedient that the needs of the authority's district with respect to the provision of housing accommodation should be satisfied by the provision of such accommodation outside Greater London, and he consents to the exercise of the power.
- (2) The power conferred by section 15(1) (provision of commercial buildings) shall not be exercised outside Greater London except with the consent of the council of the district concerned.

*Acquisition of land, etc.*

## 17 Acquisition of land for housing purposes.

- (1) A local housing authority may for the purposes of this Part—
  - (a) acquire land as a site for the erection of houses,
  - (b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings,
  - (c) acquire land proposed to be used for any purpose authorised by sections 11, 12 and 15(1) (facilities provided in connection with housing accommodation), and
  - (d) acquire land in order to carry out on it works for the purpose of, or connected with, the alteration, enlarging, repair or improvement of an adjoining house.
- (2) The power conferred by subsection (1) includes power to acquire land for the purpose of disposing of houses provided, or to be provided, on the land or of disposing of the land to a person who intends to provide housing accommodation on it.
- (3) Land may be acquired by a local housing authority for the purposes of this Part by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily.
- (4) A local housing authority may, with the consent of, and subject to any conditions imposed by, the Secretary of State, acquire land for the purposes of this Part notwithstanding that the land is not immediately required for those purposes; but an authority shall not be so authorised to acquire land compulsorily unless it appears to the Secretary of State that the land is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.

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## **18 Duties with respect to buildings acquired for housing purposes.**

- (1) Where a local housing authority acquire a building which may be made suitable as a house, they shall forthwith proceed to secure that the building is so made suitable either by themselves executing any necessary works or by leasing it or selling it to some person subject to conditions for securing that he will so make it suitable.
- (2) Where a local housing authority—
  - (a) acquire a house, or
  - (b) acquire a building which may be made suitable as a house and themselves carry out any necessary work as mentioned in subsection (1),
 they shall, as soon as practicable after the acquisition or, as the case may be, after the completion of the necessary works, secure that the house or building is used as housing accommodation.

## **19 Appropriation of land.**

- (1) A local housing authority may appropriate for the purposes of this Part any land for the time being vested in them or at their disposal; and the authority have the same powers in relation to land so appropriated as they have in relation to land acquired by them for the purposes of this Part.
- (2) Where a local housing authority have acquired or appropriated land for the purposes of this Part, they shall not, without the consent of the Secretary of State, appropriate any part of the land consisting of a house or part of a house for any other purpose.
- (3) The Secretary of State's consent may be given—
  - (a) either generally to all local housing authorities or to a particular authority or description of authority, and
  - (b) either in relation to particular land or in relation to land of a particular description;
 and it may be given subject to conditions.

### *Housing management*

## **20 Application of housing management provisions.**

- (1) The following provisions of this Part [F11 down to section 27B] (general provisions on housing management matters) apply in relation to all houses held by a local housing authority for housing purposes.
- (2) References in those provisions to an authority's houses shall be construed accordingly.

### **Textual Amendments**

**F11** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt II para. 21](#)

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## 21 General powers of management.

- (1) The general management, regulation and control of a local housing authority's houses is vested in and shall be exercised by the authority and the houses shall at all times be open to inspection by the authority.
- (2) Subsection (1) has effect subject to section 27 [<sup>F12</sup>(management agreements)].

### Textual Amendments

**F12** Words in s. 21(2) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 22](#)

## 22 Allocation of housing.

A local housing authority shall secure that in the selection of their tenants a reasonable preference is given to—

- (a) persons occupying insanitary or overcrowded houses,
- (b) persons having large families,
- (c) persons living under unsatisfactory housing conditions, and
- (d) persons towards whom the authority are subject to a duty under section 65 or 68 (persons found to be homeless).

## 23 Byelaws.

- (1) A local housing authority may make byelaws for the management, use and regulation of their houses.
- (2) A local housing authority may make byelaws with respect to the use of land held by them by virtue of section 12 (recreation grounds and other land provided in connection with housing), excluding land covered by buildings or included in the curtilage of a building or forming part of a highway.
- (3) A local housing authority shall as respects their lodging-houses by byelaws make sufficient provision for the following purposes—
  - (a) for securing that the lodging-houses are under the management and control of persons appointed or employed by them for the purpose,
  - (b) for securing the due separation at night of men and boys above eight years old from women and girls,
  - (c) for preventing damage, disturbance, interruption and indecent and offensive language and behaviour and nuisances, and
  - (d) for determining the duties of the persons appointed by them;

and a printed copy or a sufficient abstract of the byelaws relating to lodging-houses shall be put up and at all times kept in every room in the lodging-houses.

## 24 Rents.

- (1) A local housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.

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- (2) The authority shall from time to time review rents and make such changes, either of rents generally or of particular rents, as circumstances may require.
- [<sup>F13</sup>(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.
- (4) In subsection (3) “private sector rents”, in relation to houses of any class or description, means the rents which would be recoverable if they were let on assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority.]

#### Textual Amendments

**F13** S. 24(3)(4) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 162

## 25 Increase of rent where tenancy not secure.

- (1) This section applies where a house is let by a local housing authority on a weekly or other periodic tenancy which is not a secure tenancy.
- (2) The rent payable under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of a rental period by a written notice of increase given by the authority to the tenant.
- (3) The notice is not effective unless—
  - (a) it is given at least four weeks before the beginning of the rental period, or any earlier day on which the payment of rent in respect of that period falls to be made,
  - (b) it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and
  - (c) it gives him the dates by which, if in accordance with subsection (4) the increase is not to be effective, a notice to quit must be received by the authority and the tenancy be made to terminate.
- (4) Where the notice is given for the beginning of a rental period and the tenancy continues into that period, the notice shall not have effect if—
  - (a) the tenancy is terminated by notice to quit given by the tenant in accordance with the provisions (express or implied) of the tenancy,
  - (b) the notice to quit is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
  - (c) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant on the last day of that period.
- (5) In this section “rental period” means a period in respect of which a payment of rent falls to be made.

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## 26 Financial assistance towards tenants' removal expenses.

- (1) Where a tenant of one of the houses of a local authority moves to another house (whether or not that house is also one of theirs), the authority may—
  - (a) pay any expenses of the removal, and
  - (b) where the tenant is purchasing the house, pay any expenses incurred by him in connection with the purchase, other than the purchase price.
- (2) If the house belongs to the same authority subsection (1)(b) only applies if the house has never been let and was built expressly with a view to sale or for letting.
- (3) The Secretary of State may give directions to authorities in general or to any particular authority—
  - (a) as to the expenses which may be treated (whether generally or in any particular case) as incurred in connection with the purchase of a house, and
  - (b) limiting the amount which they may pay in respect of such expenses.
- (4) An authority may make their payment of expenses subject to conditions.

*[<sup>F14</sup> Management agreements]*

### Textual Amendments

**F14** Ss. 27, 27A, 27B and heading substituted for s. 27 and heading by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 10

## 27 Management agreements.

- (1) A local housing authority may, with the approval of the Secretary of State, agree that another person shall exercise as agent of the authority in relation to—
  - (a) such of the authority's houses as are specified in the agreement, and
  - (b) any other land so specified which is held for a related purpose, such of the authority's management functions as are so specified.
- (2) In this Act “management agreement” and “manager”, in relation to such an agreement, mean an agreement under this section and the person with whom the agreement is made.
- (3) A management agreement shall set out the terms on which the authority's functions are exercisable by the manager.
- (4) A management agreement may, where the manager is a body or association, provide that the manager's functions under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (5) The Secretary of State's approval (which may be given unconditionally or subject to conditions) is required both for the terms of the agreement and the identity of the manager.
- (6) References in this section to the management functions of a local housing authority in relation to houses or land include—
  - (a) functions conferred by any statutory provision, and

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- (b) the powers and duties of the authority as holder of an estate or interest in the houses or land in question.

## **27A Consultation required before management agreement can be approved.**

- (1) A local housing authority who propose to enter into a management agreement shall serve notice in writing on the tenant of each house to which the proposal relates informing him of—
  - (a) such details of their proposal as the authority consider appropriate, but including the identity of the person who is to be the manager under the agreement,
  - (b) the likely consequences of the agreement for the tenant, and
  - (c) the effect of the provisions of this section,
 and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (2) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
  - (a) of any significant changes in their proposal, and
  - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal, and informing him of the effect of subsection (5) (approval to be withheld if majority of tenants are opposed).
- (3) The Secretary of State shall not entertain an application for approval of a management agreement unless the local housing authority certify that the requirements of subsections (1) and (2) as to consultation have been complied with; and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with those subsections.
- (4) The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.
- (5) The Secretary of State shall not give his approval if it appears to him that a majority of the tenants of the houses to which the agreement relates do not wish the proposal to proceed; but this does not affect his general discretion to withhold his approval on grounds relating to whether the proposal has the support of the tenants or on any other ground.
- (6) In making his decision the Secretary of State may have regard to any information available to him; and the local housing authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.
- (7) A management agreement made with the approval of the Secretary of State is not invalidated by a failure on his part or that of the local housing authority to comply with the requirements of this section.
- (8) In the case of secure tenants the provisions of this section apply in place of the provisions of section 105 (consultation on matters of housing management) in relation to the making of a management agreement.

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VALID FROM 11/10/1993

**[<sup>F15</sup>27A Management agreements and compulsory competitive tendering.**

- (1) This section shall apply if the Secretary of State makes an order under section 2(3) of the <sup>M8</sup>Local Government Act 1988 (“the 1988 Act”) providing for the exercise of any management functions to be a defined activity for the purposes of Part I of that Act (compulsory competitive tendering).
- (2) The Secretary of State may by regulations provide that in any case where—
  - (a) a local housing authority propose to make an invitation to carry out any functional work in accordance with the rules set out in subsection (4) of section 7 of the 1988 Act (functional work: conditions), and
  - (b) the proposal is such that any decision by the authority that the work should be carried out by the person or one of the persons proposed to be invited would necessarily involve their entering into a management agreement with that person,the provisions of section 27A shall have effect with such modifications as appear to the Secretary of State to be necessary or expedient.
- (3) Nothing in section 6 of the 1988 Act (functional work: restrictions) shall apply in relation to any functional work which, in pursuance of a management agreement, is carried out by the manager as agent of the local housing authority.
- (4) In this section “functional work” has the same meaning as in Part I of the 1988 Act.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F15** S. 27AA inserted (11.10.1993) by 1993 c. 28, s. 131; S.I. 1993/2134, arts. 2, 4(a).

**Marginal Citations**

**M8** 1988 c. 9.

VALID FROM 10/11/1993

**[<sup>F16</sup>27AB Management agreements with tenant management organisations.**

- (1) The Secretary of State may make regulations for imposing requirements on a local housing authority in any case where a tenant management organisation serves written notice on the authority proposing that the authority should enter into a management agreement with that organisation.
- (2) The regulations may make provision requiring the authority—
  - (a) to provide or finance the provision of such office accommodation and facilities, and such training, as the organisation reasonably requires for the purpose of pursuing the proposal;

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- (b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;
  - (c) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted of such persons as may be so determined; and
  - (d) in such circumstances as may be prescribed by the regulations (which shall include the organisation becoming registered if it has not already done so), to enter into a management agreement with the organisation.
- (3) The regulations may make provision with respect to any management agreement which is to be entered into in pursuance of the regulations—
- (a) for determining the houses and land to which the agreement should relate, and the amounts which should be paid under the agreement to the organisation;
  - (b) requiring the agreement to be in such form as may be approved by the Secretary of State and to contain such provisions as may be prescribed by the regulations;
  - (c) requiring the agreement to take effect immediately after the expiry or other determination of any previous agreement; and
  - (d) where any previous agreement contains provisions for its determination by the authority, requiring the authority to determine it as soon as may be after the agreement is entered into.
- (4) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular make provision—
- (a) for particular questions arising under the regulations to be determined by the authority;
  - (b) for other questions so arising to be determined by an arbitrator agreed to by the parties or, in default of agreement, appointed by the Secretary of State;
  - (c) requiring any person exercising functions under the regulations to act in accordance with any guidance given by the Secretary of State; and
  - (d) for enabling the authority, if invited to do so by the organisation concerned, to nominate one or more persons to be directors or other officers of any tenant management organisation with whom the authority have entered into, or propose to enter into, a management agreement.
- (5) Nothing in subsections (2) to (4) above shall be taken as prejudicing the generality of subsection (1).
- (6) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, 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) Except as otherwise provided by regulations under this section—
- (a) a local housing authority shall not enter into a management agreement with a tenant management organisation otherwise than in pursuance of the regulations; and



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- (b) the provisions of the regulations shall apply in relation to the entering into of such an agreement with such an organisation in place of—
- (i) the provisions of section 27A (consultation with respect to management agreements),
  - (ii) in the case of secure tenants, the provisions of section 105 (consultation on matters of housing management), and
  - (iii) in the case of an organisation which is associated with the authority, the provisions of section 33 of the Local Government Act 1988 (restrictions on contracts with local authority companies).
- (8) In this section—
- “arbitrator” means a member of a panel approved for the purposes of the regulations by the Secretary of State;
- “associated” shall be construed in accordance with section 33 of the Local Government Act 1988;
- “previous agreement”, in relation to an agreement entered into in pursuance of the regulations, means a management agreement previously entered into in relation to the same houses and land;
- “registered” means registered under the Industrial and Provident Societies Act 1965 or the Companies Act 1985;
- “tenant management organisation” means a body which satisfies such conditions as may be determined by or under the regulations.]

#### Textual Amendments

- F16** S. 27AB inserted (10.11.1993 so far as confers power on Secretary of State to make regulations and 1.4.1994 otherwise) by 1993 c. 28, s. 132(1); S.I. 1993/2762, art. 3; S.I. 1994/935, art. 3 (with transitional provisions in art. 3)

#### 27B Agreements with housing co-operatives under superseded provisions.

- (1) In this section “housing co-operative” means a society, company or body of trustees with which a housing co-operative agreement was made, that is to say—
- (a) an agreement to which paragraph 9 of Schedule 1 to the Housing Rents and Subsidies Act 1975 or Schedule 20 to the Housing Act 1980 applied or,
  - (b) an agreement made under section 27 above before the commencement of section 10 of the Housing and Planning Act 1986 (which substituted the present section 27).
- (2) A housing co-operative agreement made with a local housing authority which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 has effect as if made under the present section 27, so that, in particular, any terms of the agreement providing for the letting of land to the housing co-operative no longer have effect except in relation to lettings made before commencement.
- (3) A housing co-operative agreement made with a new town corporation or the Development Board for Rural Wales which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 remains in force notwithstanding that the present section 27 does not apply to such authorities.

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- (4) In this Act (except in section 27) the expressions “management agreement” and “manager”, in relation to such an agreement, include a housing co-operative agreement to which subsection (2) or (3) applies and the housing co-operative with whom the agreement is made.

VALID FROM 01/10/1996

*[<sup>F17</sup> Consultation with respect to housing management]*

**Textual Amendments**

**F17** S. 27BA and cross-heading inserted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. I para. 3(2); S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

**[<sup>F18</sup> 27BA Consultation with respect to management.**

- (1) The Secretary of State may make regulations for imposing requirements on a local housing authority to consult tenants, or to consider representations made to them by tenants, with respect to the exercise of their management functions (including proposals as to the exercise of those functions), in relation to any of the authority’s houses or other land held for a related purpose.
- (2) The regulations may include provision requiring a local housing authority to consult tenants, or consider representations made by tenants, with respect to—
  - (a) the terms of a written specification to be prepared by the authority of functions proposed to be exercised by the authority or another person;
  - (b) a proposal of the authority to exercise management functions themselves;
  - (c) any person whom the authority propose to invite to submit a bid to exercise any of their management functions;
  - (d) the standards of service for the time being achieved by the authority or (as the case may be) the person with whom they have entered into a management agreement;
  - (e) a proposal to enforce the standards of service required by a management agreement.
- (3) The requirements imposed on a local housing authority by the regulations may include provision with respect to—
  - (a) the tenants to be consulted or whose representations are to be considered;
  - (b) the means by which consultation is to be effected (including the arrangements to be made for tenants to consider the matters on which they have been consulted);
  - (c) the arrangements to be made for tenants to make representations to the authority;
  - (d) the action to be taken by the authority where representations are made.
- (4) The regulations may include provision requiring a local housing authority to consult representatives of tenants, or to consider representations made to them by such representatives, as well as (or instead of) the tenants themselves; and accordingly,

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references in subsections (1) to (3) above to tenants include references to such representatives.

- (5) The regulations may include provision for particular questions arising under them to be determined by a local housing authority on whom they impose requirements.
- (6) Nothing in subsections (2) to (5) above shall be taken as prejudicing the generality of subsection (1).
- (7) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,
  - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Except as otherwise provided by the regulations, in the case of secure tenants, the provisions of the regulations shall apply in place of the provisions of section 105 (consultation on matters of housing management).
- (9) Except as otherwise provided by the regulations, in the case of introductory tenants, the provisions of the regulations shall apply in place of the provisions of section 137 of the Housing Act 1996 (consultation on matters of housing management).
- (10) References in this section to the management functions of a local housing authority in relation to houses or land shall be construed in the same way as references to any such functions in section 27.]

#### Textual Amendments

**F18** S. 27BA and cross-heading inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. I para. 3(2)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)

#### *[<sup>F19</sup> Proposals for co-operative management or ownership]*

#### Textual Amendments

**F19** S. 27C and cross-heading inserted by **Housing and Planning Act 1986 (c. 63, SIF 61), s. 11**

### **27C Proposals for co-operative management or ownership.**

- (1) If a qualifying tenants' association serves written notice on the local housing authority—
  - (a) proposing that the authority should enter into a management agreement with the association with respect to houses and other land specified in the notice, or
  - (b) proposing that the association should acquire from the authority houses and other land specified in the notice at a specified price,the authority shall take the proposal into consideration.

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- (2) If the authority have not, by the end of the period of six months after service of the notice, accepted the proposal in principle, they shall give the association a written statement of the reasons why they have not done so.
- (3) A tenants' association is a qualifying association for the purposes of this section if—
  - (a) it is a housing association of which at least half the members are tenants of houses specified in the notice,
  - (b) it has at least 50 such members or is registered under the Industrial and Provident Societies Act 1965, and
  - (c) at least half the tenants of the specified houses are members of the association.

#### *Powers of county councils*

### **28 Reserve powers to provide housing accommodation.**

- (1) County councils have the following reserve powers in relation to the provision of housing accommodation.
- (2) They may undertake any activity for the purposes of, or incidental to, establishing the needs of the whole or a part of the county with respect to the provision of housing accommodation.
- (3) If requested to do so by one or more local housing authorities for districts within the county, they may, with the consent of the Secretary of State, undertake on behalf of the authority or authorities the provision of housing accommodation in any manner in which they might do so.
- (4) With the approval of the Secretary of State given on an application made by them, they may undertake the provision of housing accommodation in any manner in which a local housing authority for a district within the county might do so.
- (5) The Secretary of State shall not give his consent under subsection (3) or his approval under subsection (4) except after consultation with the local housing authorities who appear to him to be concerned; and his consent or approval may be made subject to such conditions and restrictions as he may from time to time specify and, in particular, may include conditions with respect to—
  - (a) the transfer of the ownership and management of housing accommodation provided by the county council to the local housing authority, and
  - (b) the recovery by the county council from local housing authorities of expenditure incurred by the county council in providing accommodation.
- (6) Before a county council by virtue of subsection (3) or (4) exercise outside the county any power under this Part they shall give notice to the council of the county in which they propose to exercise the power; but failure to give notice does not invalidate the exercise of the power.

### **29 Provision of accommodation for employees of county councils.**

- (1) A county council may provide houses for persons employed or paid by, or by a statutory committee of, the council.
- (2) For that purpose the council may acquire or appropriate land in the same way as a local housing authority may acquire or appropriate land for the purposes of this Part;

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and land so acquired or appropriated may be disposed of by them in the same way as land held for the purposes of this Part.

*Miscellaneous powers of other authorities and bodies*

**30 Application of provisions to new town corporations, etc.**

- (1) The following provisions apply in relation to a new town corporation as they apply in relation to a local housing authority—
  - section 25 (increase of rent where tenancy not secure), and
  - section 26 (financial assistance towards tenants' removal expenses).
- (2) ..... <sup>F20</sup>

**Textual Amendments**

**F20** S. 30(2) repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), Sch. 5 para. 23, [Sch. 12 Pt. I](#)

**31 Power of bodies corporate to sell or let land for housing purposes.**

A body corporate holding land may sell, exchange or lease the land for the purpose of providing housing of any description at such price, or for such consideration, or for such rent, as having regard to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration or rent might have been obtained if the land were sold, exchanged or leased for the purpose of providing housing of another description or for a purpose other than the provision of housing.

*Disposal of land held for housing purposes*

**32 Power to dispose of land held for purposes of this Part.**

- (1) Without prejudice to the provisions of Part V (the right to buy) [<sup>F21</sup>and Part IV of the Housing Act 1988 (change of landlord: secure tenants)], a local authority have power by this section, and not otherwise, to dispose of land held by them for the purposes of this Part.
- (2) A disposal under this section may be effected in any manner but, subject to subsection (3), shall not be made without the consent of the Secretary of State.
- (3) No consent is required for the letting of land under a secure tenancy or under what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 (tenancies, other than long leases, which are not secure).
- (4) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, land is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.
- (5) Sections 128 to 132 of the <sup>M9</sup>Lands Clauses Consolidation Act 1845 (which require surplus land first to be offered to the original owner and to adjoining land-owners)

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do not apply to the sale by a local authority of land held by them for the purposes of this Part.

#### Textual Amendments

**F21** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 38**

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

**C15** [S. 32](#) extended (1.11.1993) by [1993 c. 28, s. 37, Sch. 10 para. 1\(2\)\(a\)](#) (with [ss. 56\(6\), 94\(2\), 95](#)); [S.I. 1993/2134, arts. 2, 5\(a\)](#).

**C16** [S. 32\(2\)](#) excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), **s. 26(5)(c)**

**C17** [S. 32\(4\)](#) applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 133(4)**

#### Marginal Citations

**M9** [1845 c. 18](#).

### 33 Covenants and conditions which may be imposed.

- (1) On a disposal under section 32 the local authority may impose such covenants and conditions as they think fit.
- (2) But a condition of any of the following kinds may be imposed only with the consent of the Secretary of State—
  - (a) a condition limiting the price or premium which may be obtained on a further disposal of a house;
  - (b) in the case of a sale, a condition reserving a right of pre-emption;
  - (c) in the case of a lease, a condition precluding the lessee from assigning the lease or granting a sub-lease.
- (3) In subsection (2)(b) a condition reserving a right of pre-emption means a condition precluding the purchaser from selling or leasing the land unless—
  - (a) he first notifies the authority of the proposed sale or lease and offers to sell or lease the land to them, and
  - (b) the authority refuse the offer or fail to accept it within one month after it is made.
- (4) References in this section to the purchaser or lessee include references to his successors in title and any person deriving title under him or his successors in title.

### 34 Consents under ss. 32 and 33.

- (1) This section applies in relation to the giving of the Secretary of State's consent under section 32 or 33.
- (2) Consent may be given—
  - (a) either generally to all local authorities or to a particular authority or description of authority;
  - (b) either in relation to particular land or in relation to land of a particular description.
- (3) Consent may be given subject to conditions.

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- (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on the disposal including conditions as to the amount by which on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the local authority.
- [<sup>F22</sup>(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—
- (a) the extent (if any) to which the person to whom the proposed disposals is to be made (in this subsection referred to as “the intending purchaser” is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
  - (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
  - (c) the terms of the proposed disposal; and
  - (d) any other matters whatsoever which he considers relevant.
- (4B) . . . . . [<sup>F23</sup>]

**Textual Amendments**

**F22** S. 34(4A)(4B) inserted (*retrospectively* 9.6.1988) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 132(1)(2)(8)

**F23** S. 34(4B) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(2), [Sch. 12 Pt. I](#)

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

**C18** S. 34(2)(b)(3) extended by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 133(3)(a)

**C19** S. 34(4A) extended by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 133(3)(a)

**C20** S. 34(4A) modified by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 133(3)(c)

VALID FROM 01/12/2008

[<sup>F24</sup>**34A Requirements to co-operate in relation to certain disposals**

(1) The appropriate person may make regulations for imposing requirements on a local housing authority in any case where a tenant group serves written notice on the authority proposing that the authority should dispose of particular land held by them for the purposes of this Part, or a particular description of such land, to a relevant housing provider.

(2) The regulations may make provision requiring the authority—

- (a) to provide, or finance the provision of, such office accommodation and facilities, and such training, as the tenant group reasonably requires for the purpose of pursuing the proposal;
- (b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;
- (c) to provide to the tenant group such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;

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- (d) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the tenant group in connection with the proposal;
  - (e) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined; and
  - (f) in such circumstances as may be prescribed by the regulations, to enter into an agreement for the disposal.
- (3) The regulations may make provision—
- (a) for determining the houses and other land to which the disposal should relate, and the amounts which should be paid in respect of the disposal;
  - (b) requiring the agreement for the disposal to be in such form as may be approved by the appropriate person and to contain such provisions as may be prescribed by the regulations.
- (4) The regulations may make such procedural, incidental, supplementary and transitional provisions as may appear to the appropriate person necessary or expedient, and may in particular make provision—
- (a) for particular questions arising under the regulations to be determined by the authority or the appropriate person;
  - (b) setting time-limits for the carrying out of requirements under the regulations;
  - (c) requiring any person exercising functions under the regulations to act in accordance with any guidance or directions given by the appropriate person.
- (5) Nothing in subsections (2) to (4) is to be taken as prejudicing the generality of subsection (1).
- (6) Any regulations which provide for the appropriate person to approve a proposal for a local housing authority to dispose of land must ensure that the authority has the opportunity to make representations to the appropriate person before the appropriate person decides whether or not to approve the proposal.
- (7) This section does not affect any requirement under section 32 or 33 for the consent of the Secretary of State or the Welsh Ministers.
- (8) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas; and
  - (b) are to be made by statutory instrument which—
    - (i) in the case of an instrument made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament; and
    - (ii) in the case of an instrument made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (9) In this section—
- “appropriate person” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;
  - “relevant housing provider” means—



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- (a) in relation to England, a registered provider of social housing; and
  - (b) in relation to Wales, a registered social landlord; and
- “tenant group” means a body or other person which satisfies such conditions as may be determined by or under the regulations.]

#### Textual Amendments

**F24** S. 34A inserted (1.12.2008 for E. and otherwise prosp.) by [Housing and Regeneration Act 2008](#) (c. 17), [ss. 296, 325](#); [S.I. 2008/3068](#), arts. 1(2), [4\(1\)\(b\)](#) (with arts. 6-13)

### 35 Repayment of discount on early disposal.

- (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 a covenant binding on the purchaser and his successors in title to pay to the authority on demand, if within a period of [<sup>F25</sup>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 [<sup>F25</sup>one-third] for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.

#### Textual Amendments

**F25** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 61), [s. 2\(3\)](#)

VALID FROM 18/01/2005

#### [<sup>F26</sup>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.

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- (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.]

#### Textual Amendments

**F26** S. 35A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 196, 270(3)(a)

### 36 Liability to repay is a charge on the premises.

- (1) The liability that may arise under the covenant required by section 35 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) The charge 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, or
  - (c) further advanced to him by that institution;

but the local authority may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the purchaser by that institution.

- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the <sup>M10</sup>Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

[<sup>F27</sup>(3A) The covenant required by section 35 (covenant for repayment of discount) 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 this section, or a person deriving title under him; and 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 the covenant.]

- (4) The approved lending institutions for the purposes of this section are—
- a building society,
  - a bank,
  - a trustee savings bank,
  - an insurance company,
  - a friendly society,

and any body specified, or of a class or description specified, in an order made under section 156 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section).

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### Textual Amendments

**F27** S. 36(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), Sch. 5 Pt. I para. 1(1)(5)

### Marginal Citations

**M10** 1925 c. 21.

VALID FROM 18/01/2005

## **[<sup>F28</sup>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.

#### Textual Amendments

**F28** Ss. 36A, 36B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 197(1)(5), 270(3)(a)

VALID FROM 18/01/2005

#### **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.

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- (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).]

#### Textual Amendments

**F28** Ss. 36A, 36B inserted (18.1.2005) by Housing Act 2004 (c. 34), ss. 197(1)(5), 270(3)(a)

### 37 Restriction on disposal of dwelling-houses in National Parks, etc.

- (1) Where a conveyance, grant or assignment executed under section 32 is of a house situated in—
  - (a) a National Park.
  - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 (which makes provision in relation to disposals in pursuance of the right to buy corresponding to that made by this section),the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) (right of pre-emption or restriction on assignment)) contain a covenant 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 in the manner specified below.
- (2) The limitation is that until such time (if any) as may be notified in writing by the local authority to the purchaser or a successor in title of his
  - [<sup>F29</sup>(a) , there will be no relevant disposal which is not an exempted disposal without the written consent of the authority; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3)] [<sup>F30</sup>and
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the authority unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the house].
- (3) The condition is that 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 [<sup>F31</sup>or, in the case of a disposal by way of tenancy or licence, preceding the disposal]—
  - (a) had his place of work in a region designated by order under section 157(3) which, or part of which, is comprised in the National Park or area, or
  - (b) had his only or principal home in such a region;

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or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

- (4) A disposal in breach of such a covenant as is mentioned in subsection (1) is void [F32 and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the local authority as if—
- (a) the authority were possessed of land adjacent to the house concerned; and
  - (b) the covenant were expressed to be made for the benefit of such adjacent land].
- [F33(4A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.]
- (5) The limitation imposed by such a covenant is a local land charge and, if the land is registered under the M12 Land Registration Act 1925, the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefore had been made under section 58 of that Act.
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.

#### Textual Amendments

- F29** “(a)” inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(2\)\(6\)](#)
- F30** Word “and” and s. 37(2)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(2\)\(6\)](#)
- F31** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(3\)\(6\)](#)
- F32** Words and s. 37(4)(a)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(4\)\(6\)](#)
- F33** [S. 37\(4A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 125\(5\)\(6\)](#)

#### Marginal Citations

- M11** 1949 c. 97.
- M12** 1925 c. 21.

### 38 Relevant disposals.

- (1) A disposal, whether of the whole of part of the house, is a relevant disposal for the purposes of this Part if it is—
- (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease of sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- (a) 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
  - (b) that any option to terminate a lease or sub-lease is not exercised.

### 39 Exempted disposals.

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) 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 (2));

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- (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the house in pursuance of an order made under section 24 of the <sup>M13</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the <sup>M14</sup>Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
  - (d) it is a compulsory disposal; or
  - (e) the property disposed of is property included with the house by virtue of the definition of “house” in section 56 (yard, garden, outhouses, &c.).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person or one of the persons by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person or one of those persons, or
  - (c) 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.

#### Marginal Citations

**M13** 1973 c. 18.

**M14** 1975 c. 63.

VALID FROM 18/01/2005

#### **[<sup>F34</sup>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)—
  - (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and

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- (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).]

#### Textual Amendments

**F34** S. 39A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 198(1)(2)**, 270(3)

#### 40 Meaning of “compulsory disposal”.

In this Part a “compulsory disposal” means 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.

#### 41 Exempted disposals which end liability under covenants.

Where there is a relevant disposal which is an exempted disposal by virtue of section 39(1)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.)—

- (a) the covenant required by section 35 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 36 (liability to repay a charge on the premises) cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 37 (restriction on disposal of houses in National Parks, etc.) ceases to apply in relation to the property disposed of.



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**42 Treatment of options.**

- (1) For the purposes of this Part 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.
- (2) For the purposes of section 37(2) (requirement of consent to disposal of house in National Park etc.) a consent to such a grant shall be treated as a consent to a disposal made in pursuance of the option.

**43 Consent required for certain disposals not within s. 32.**

- (1) The consent of the Secretary of State is required for the disposal by a local authority, otherwise than in pursuance of Part V (the right to buy) [<sup>F35</sup>or Part IV of the Housing Act 1988 (change of landlord: secure tenants)], of a house belonging to the authority—
    - (a) which is let on a secure tenancy, or
    - (b) of which a lease has been granted in pursuance of Part V,but which has not been acquired or appropriated by the authority for the purposes of this Part.
  - (2) Consent may be given—
    - (a) either generally to all local authorities or to any particular local authority or description of authority, and
    - (b) either generally in relation to all houses or in relation to any particular house or description of house.
  - (3) Consent may be given subject to conditions.
  - (4) Consent may, in particular, be given subject to conditions as to the price, premium or rent to be obtained on a disposal of the house, including conditions as to the amount by which, on a disposal of the house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the local authority.
- [<sup>F36</sup>(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—
- (a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as “the intending purchaser”) is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
  - (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
  - (c) the terms of the proposed disposal; and
  - (d) any other matters whatsoever which he considers relevant.
- (4B) .....<sup>F37</sup>]
- (5) For the purposes of this section the grant of an option to purchase the freehold of, or any other interest in, a house to which this section applies is a disposal and a consent given under this section to such a disposal extends to a disposal made in pursuance of the option.

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### Textual Amendments

- F35** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 39**
- F36** [S. 43\(4A\)\(4B\)](#) inserted (*retrospectively* 9.6.1988) by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 132(1)(2)(8)**
- F37** [S. 43\(4B\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(2), **Sch. 12 Pt. I**

### Modifications etc. (not altering text)

- C21** [Ss. 43, 44, 45](#) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**
- C22** [S. 43](#) extended (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para. 1(2)(a)** (with [ss. 56\(6\), 94\(2\), 95](#)); S.I. 1993/2134, **arts. 2, 5(a)**.  
[Ss. 43, 44](#) extended (5.7.1994) by 1994 c. 19, [ss. 39, 66\(2\)\(b\)](#), **Sch. 13 para. 21(a)** (with [ss. 54\(5\)\(7\), 55\(5\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C23** [Ss. 43, 44](#) modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(a)**
- C24** [S. 43\(1\)](#) excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), **s. 26(5)(c)**
- C25** [S. 43\(2\)\(b\)\(3\)](#) extended by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 133(3)(b)**
- C26** [S. 43\(4A\)](#) extended by [Housing Act 1988 \(c. 50, SIF 81:1\)](#), **s. 133(3)(b)**
- C27** [S. 43\(4A\)](#) modified by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 133(c)**
- C28** [S. 43\(5\)](#) applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 133(4)**

## 44 Avoidance of certain disposals of houses without consent.

- (1) A disposal of a house by a local authority made without the consent required by section 32 or 43 is void, unless—
- (a) the disposal is to an individual (or to two or more individuals), and
  - (b) the disposal does not extend to any other house.
- (2) Subsection (1) has effect notwithstanding section 29 of the <sup>M15</sup>Town and Country Planning Act 1959 and section 128(2) of the <sup>M16</sup>Local Government Act 1972 (protection of purchasers dealing with authority).
- (3) In this section “house” does not have the extended meaning applicable by virtue of the definition of “housing accommodation” in section 56, but includes a flat.

### Modifications etc. (not altering text)

- C29** [Ss. 43, 44, 45](#) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**
- C30** [Ss. 43, 44](#) extended (5.7.1994) by 1994 c. 19, [ss. 39, 66\(2\)\(b\)](#), **Sch. 13 para. 21(a)** (with [ss. 54\(5\)\(7\), 55\(5\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C31** [Ss. 43, 44](#) modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(a)**

### Marginal Citations

- M15** 1959 c. 53.  
**M16** 1972 c. 70.

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

*Changes to legislation:* Housing Act 1985 is up to date with all changes known to be in force on or before 29 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)

### *Restriction on service charges*

#### [<sup>F38</sup>45 Disposals in relation to which ss. 46 to 51 apply, etc. payable after disposal of house

(1) The following provisions of this Part down to section 51 (restrictions on, and provision of information about, services charges) apply where—

[<sup>F39</sup>(a) the freehold of a house has been conveyed by a public sector authority; and

(b) the conveyance enabled the vendor to recover from the purchaser a service charge.]

(2) In subsection (1)(a)—

..... <sup>F40</sup>

(0 <sup>F40</sup> “public sector authority” means—

- a local authority,
- a new town corporation,
- an urban development corporation,
- [<sup>F41</sup>a housing action trust]
- the Development Board for Rural Wales,
- [<sup>F42</sup>Corporation]
- a registered housing association.

(3) The following provisions—

- section 170 (power of Secretary of State to give assistance in connection with legal proceedings), and
- section 181 (jurisdiction of county court),

apply to proceedings and questions arising under this section and sections 46 to 51 as they apply to proceedings and questions arising under Part V (the right to buy).]

#### **Textual Amendments**

- F38** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 41(2)
- F39** S. 45(1)(a)(b) substituted for s. 45(1)(a)–(c) by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1), [Sch. 4 para. 4\(a\)](#)
- F40** Words repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1)(2), [Sch. 4 para. 4\(b\)](#), [Sch. 5](#)
- F41** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 79(11)
- F42** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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

- C32** Ss. 45–51 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), [Sch. 13 para. 21\(b\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C33** Ss. 43, 44, 45 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22 and 23](#) as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(1), [Sch. 3 para. 5\(3\)](#)
- C34** Ss. 45–51 modified (1.4.1995) by S.I. 1995/401, art. 18, [Sch. para. 8\(b\)](#)

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**C35** S. 45(2) (previously 45(2)(b)) explained by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(1), [Sch. 3 para. 5\(3\)](#)

<sup>F43</sup>**46** .....

**Textual Amendments**  
**F43** S. 46 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), [Sch. 5 Pt. II para. 24, Sch. 12 Pt. I](#), and by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. [41\(2\)](#)

<sup>F44</sup>**47** **Limitation of service charges.**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;
 and the amount payable shall be limited accordingly.
- (2) Where the service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction of subsequent charges or otherwise.
- (3) An agreement by the payer (other than an arbitration agreement within the meaning of section 32 of the <sup>M17</sup>Arbitration Act 1950) is void in so far as it purports to provide for a determination in a particular manner or on particular evidence of any question—
  - (a) whether an amount payable before costs for services, repairs, maintenance, insurance or management are incurred is reasonable,
  - (b) whether such costs were reasonably incurred, or
  - (c) whether services or works for which costs were incurred are of a reasonable standard.

<sup>F45</sup>(4) [ Where relevant costs are incurred or to be incurred on the carrying out of works in respect of which a grant has been or is to be paid under Part XV <sup>F46</sup>of this Act or Part VIII of the Local Government and Housing Act 1989] (grants for works of improvement, repair or conversion), the amount of the grant shall be deducted from the costs and the amount of the service charge payable shall be reduced accordingly.]]

**Textual Amendments**  
**F44** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. [41\(2\)](#)  
**F45** S. 47(4) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 9\(3\)](#)  
**F46** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 63](#)

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

- C36** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 61**
- C37** Ss. 45–51 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C38** Ss. 45–51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

#### Marginal Citations

- M17** 1950 c. 27.

### [<sup>F47</sup> 48 Information as to relevant costs.

- (1) The payer may require the payee in writing to supply him with a written summary of the costs incurred—
  - (a) if the relevant accounts are made up for periods of twelve months, in the last such period ending not later than the date of the request, or
  - (b) if the accounts are not so made up, in the period of twelve months ending with the date of the request,and which are relevant to the service charges payable or demanded as payable in that or any other period.
- (2) The payee shall comply with the request within one month of the request or within six months of the end of the period referred to in subsection (1)(a) or (b), whichever is the later.
- (3) The summary shall set out those costs in a way showing how they are or will be reflected in demands for service charges and must be certified by a qualified accountant as in his opinion a fair summary complying with this requirement and as being sufficiently supported by accounts, receipts and other documents which have been produced to him.

[ The summary shall also state whether any of the costs relate to works in respect of  
<sup>F48</sup>(3A) which a grant has been or is to be paid under Part XV [<sup>F49</sup> of this Act or Part VIII of the Local Government and Housing Act 1989] (grants for works of improvement, repair or conversion).]

- (4) Where the payer has obtained such a summary as is referred to in subsection (1) (whether in pursuance of this section or otherwise, he may within six months of obtaining it require the payee in writing to afford him reasonable facilities—
  - (a) for inspecting the accounts, receipts and other documents supporting the summary, and
  - (b) for taking copies of extracts from them,and the payee shall then make such facilities available to the payer for a period of two months beginning not later than one month after the request is made.
- (5) A request under this section shall be deemed to be served on the payee if it is served on a person who receives the service charge on behalf of the payee; and a person on whom a request is so served shall forward it as soon as possible to the payee.
- (6) A disposal of the house by the payer does not affect the validity of a request made under this section before the disposal; but a person is not obliged to provide a summary

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or make the facilities available more than once for the same house and for the same period.]

**Textual Amendments**

**F47** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 41(2)

**F48** S. 48(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 9(4)**

**F49** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 63**

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

**C39** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**

**C40** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

**C41** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

<sup>F50</sup>49 .....

**Textual Amendments**

**F50** S. 49 repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), ss. 41(2), 61(1)(2), Sch. 4 para. 5, **Sch. 5**

[<sup>F51</sup>50 **Offences.**

- (1) If a person fails without reasonable excuse to perform a duty imposed on him by section 48 . . . <sup>F52</sup>(provision of information, &c.), he commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) Subsection (1) does not apply where the payee is—
  - a local authority,
  - a new town corporation, or
  - the Development Board for Rural Wales.]

**Textual Amendments**

**F51** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 41(2)

**F52** Words repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1)(2), Sch. 4 para. 6, **Sch. 5**

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

**C42** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**

**C43** Ss. 45-51 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

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**C44** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

[<sup>F53</sup>**51** **Meaning of “qualified accountant”.**

- (1) The reference to a “qualified accountant” in section 48(3) (certification of summary of information about relevant costs) is to a person who, in accordance with the following provisions, has the necessary qualification and is not disqualified from acting.
- (2) A person has the necessary qualification if he is a member of one of the following bodies—
  - the Institute of Chartered Accountants in England and Wales,
  - the Institute of Chartered Accountants in Scotland,
  - the Association of Certified Accountants,
  - the Institute of Chartered Accountants in Ireland, or
  - any other body of accountants established in the United Kingdom and recognised by the Secretary of State for the purposes of section 389(1)(a) of the <sup>M18</sup>Companies Act 1985,or if he is a person who is for the time being authorised by the Secretary of State under section 389(1)(b) of that Act (or the corresponding provision of the <sup>M19</sup>Companies Act 1948) as being a person with similar qualifications obtained outside the United Kingdom.
- (3) A Scottish firm has the necessary qualification if each of the partners in it has the necessary qualification.
- (4) The following are disqualified from acting—
  - (a) a body corporate, except a Scottish firm;
  - (b) an officer or employee of the payee or, where the payee is a company, of an associated company;
  - (c) a person who is a partner or employee of any such officer or employee.
- (5) For the purposes of subsection (4)(b) a company is associated with the payee company if it is (within the meaning of section 736 of the Companies Act 1985) the payee’s holding company or subsidiary or is a subsidiary of the payee’s holding company.
- (6) Where the payee is a local authority, a new town corporation or the Development Board for Rural Wales—
  - (a) the persons who have the necessary qualification include members of the Chartered Institute of Public Finance and Accountancy, and
  - (b) subsection (4)(b) (disqualification of officers and employees) does not apply.]

**Textual Amendments**

**F53** Ss. 45, 47, 48, 50, 51 repealed in relation to dwellings let on long leases by **Landlord and Tenant Act 1987 (c. 31, SIF 75:1), s. 41(2)**

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

**C45** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by **Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), Sch. 13 paras. 22** and 23 as substituted by **Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, Sch. 2 para. 61**

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#### Marginal Citations

**M18** 1985 c. 6.

**M19** 1948 c. 38.

### *Miscellaneous*

#### 52 Compliance with minimum standards in erection of houses.

A local housing authority by whom a house is erected under the enactments relating to housing, whether with or without financial assistance from the government, shall secure—

<sup>F54</sup>(a) .....

(b) that, in except in so far as the Secretary of State may, in a particular case, dispense with the observance of this paragraph, the house is provided with a fixed bath in a bathroom.

#### Textual Amendments

**F54** S. 52(a) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), ss. 19(11)(a), 23, 41, [Sch. 7 Pt. I](#)

#### 53 Prefabs deemed to be houses provided under this Part.

- (1) This section applies to prefabs, that is to say structures made available to a local authority under section 1 of the <sup>M20</sup>Housing (Temporary Accommodation) Act 1944 (“the 1944 Act”).
- (2) For the purposes of this Act prefabs shall be deemed to be houses provided by the local housing authority under this Part.
- (3) A prefab and the land on which it is situated may, if immediately before the repeal of the 1944 Act (on 25th August 1972) it was deemed to be land acquired for the purposes of Part V of the <sup>M21</sup>Housing Act 1957, be appropriated or disposed of by the local housing authority in the same way as any other land acquired or deemed to be acquired for the purposes of this Part.
- (4) The provisions of this section do not affect any obligation of a local housing authority to another person as respects the removal or demolition of a prefab.
- (5) References in this section to a prefab include fittings forming part of it.

#### Marginal Citations

**M20** 1944 c. 36.

**M21** 1957 c. 56.



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### Supplementary provisions

#### 54 Powers of entry.

- (1) A person authorised by a local housing authority or the Secretary of State may, at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination—
  - (a) where it appears to the authority or Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, or
  - (b) in the case of premises which the authority are authorised by this Part to purchase compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [<sup>F55</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### Textual Amendments

**F55** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 64](#)

#### 55 Penalty for obstruction.

- (1) It is a summary offence [<sup>F56</sup>intentionally] to obstruct an officer of the local housing authority, or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding [<sup>F57</sup>level 3] on the standard scale.

#### Textual Amendments

**F56** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 65\(1\)](#)

**F57** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 65\(2\)](#)

#### 56 Minor definitions.

In this Part—

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it;

“housing accommodation” includes flats, lodging-houses and hostels, and

“house” shall be similarly construed;

“lodging-houses” means houses not occupied as separate dwellings;

“member of family” in relation to a person, has the same meaning as in Part V (the right to buy);

“owner”, in relation to premises—

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- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

## 57 Index of defined expressions: Part II.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
compulsory disposal	section 40
[ <sup>F58</sup> the Corporation]	[ <sup>F58</sup> section 6A]
development corporation	section 4(c)
district (of a local housing authority)	section 2(1)
exempted disposal	section 39
family (member of)	sections 56 and 186
friendly society	section 622
hostel	section 622
house	section 56
housing accommodation	section 56
housing association	section 5(1)
Housing Revenue Account	section 417
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	sections 1, 2(2)
local housing authority's houses	section 20
lodging-houses	section 56
new town corporation	section 4(b)
owner	section 56
payee and payer (in relation to a service charge)	[ <sup>F59</sup> section 621A]
qualified accountant (for the purposes of section 48(3))	section 51
registered (in relation to a housing association)	section 5(4)

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relevant costs (in relation to a service charge)	[ <sup>F59</sup> section 621A] (2), (3)
relevant disposal	section 38 (and see section 452(3))
secure tenancy	section 79
service charge	[ <sup>F59</sup> section 621A] (1)
shared ownership lease	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
street	section 622
tenancy and tenant	section 621
trustee savings bank	section 622
urban development corporation	section 4(d)

#### Textual Amendments

**F58** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 para. 108](#)

**F59** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 25](#)

## PART III

### HOUSING THE HOMELESS

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

**C46** Pt. III (ss. 58-78) excluded (26.7.1993) by [1993 c. 23, s. 4\(1\)\(5\)](#), [Sch. 1 para. 8](#); S.I. 1993/1655, [art. 2](#).

Pt. III (ss. 58-78) modified (26.7.1993) by [1993 c. 23, s. 4\(5\)](#), [Sch. 1 para. 4](#) (with [Sch. 1 para. 8](#)); S.I. 1993/1655, [art. 2](#).

Pt. III (ss. 58-78) restricted (19.8.1996) by [1996 c. 49, s. 9\(4\)\(a\)](#); S.I. 1996/2127, [art. 2](#), [Sch. Pt. I](#)

#### *Main definitions*

#### **58 Homelessness and threatened homelessness.**

- (1) A person is homeless if he has no accommodation in England, Wales or Scotland.
- (2) A person shall be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which it is reasonable for that person to reside with him—
  - (a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or
  - (b) has an express or implied licence to occupy, or Scotland has a right or permission or an implied right or permission to occupy, or

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- (c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of another person to recover possession.
- [<sup>F60</sup>(2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
- (2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.]
- (3) A person is also homeless if he has accommodation but—
- (a) he cannot secure entry to it, or
  - (b) it is probable that occupation of it will lead to violence from some other person residing in it or to threats of violence from some other person residing in it and likely to carry out the threats, or
  - (c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.
- (4) A person is threatened with homelessness if it is likely that he will become homeless within 28 days.

#### Textual Amendments

**F60** S. 58(2A)(2B) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 14\(2\)](#)

## 59 Priority need for accommodation.

- (1) The following have a priority need for accommodation—
- (a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
  - (b) a person with whom dependent children reside or might reasonably be expected to reside;
  - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
  - (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- (2) The Secretary of State may by order made by statutory instrument—
- (a) specify further descriptions of persons as having a priority need for accommodation, and
  - (b) amend or repeal any part of subsection (1).
- (3) Before making such an order the Secretary of State shall consult such association representing relevant authorities, and such other persons, as he considers appropriate.
- (4) No order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

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## **60 Becoming homeless intentionally.**

- (1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.
- (3) For the purposes of subsection (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.
- (4) Regard may be had, in determining whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he applied for accommodation or for assistance in obtaining accommodation.

## **61 Local connection.**

- (1) References in this Part to a person having a local connection with the district of a local housing authority are to his having a connection with that district—
  - (a) because he is, or in the past was, normally resident in that district, and that residence is or was of his own choice, or
  - (b) because he is employed in that district, or
  - (c) because of family associations, or
  - (d) because of special circumstances.
- (2) For the purposes of this section—
  - (a) a person is not employed in a district if he is serving in the regular armed forces of the Crown;
  - (b) residence in a district is not of a person's own choice if he becomes resident in it because he, or a person who might reasonably be expected to reside with him, is serving in the regular armed forces of the Crown.
- (3) Residence in a district is not of a persons' own choice for the purpose of this section if he, or a person who might reasonably be expected to reside with him, became resident in it because he was detained under the authority of an Act of Parliament.
- (4) The Secretary of State may by order specify other circumstances in which—
  - (a) a person is not to be treated for the purposes of this section as employed in a district, or
  - (b) residence in a district is not to be treated for those purposes as of a person's own choice.
- (5) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### *Duties of local housing authorities with respect to homelessness and threatened homelessness*

#### **62 Inquiry into cases of possible homelessness or threatened homelessness.**

- (1) If a person (an “applicant”) applies to a local housing authority for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves as to whether he is homeless or threatened with homelessness.
- (2) If they are so satisfied, they shall make any further inquiries necessary to satisfy themselves as to—
  - (a) whether he has a priority need, and
  - (b) whether he became homeless or threatened with homelessness intentionally;
 and if they think fit they may also make inquiries as to whether he has a local connection with the district of another local housing authority in England, Wales or Scotland.

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

C47 S. 62 extended (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 2** (with **Sch. 1 para. 8**); S.I. 1993/1655, **art. 2**.

#### **63 Interim duty to accommodate in case of apparent priority need.**

- (1) If the local housing authority have reason to believe that an applicant may be homeless and have a priority need, they shall secure that accommodation is made available for his occupation pending a decision as a result of their inquiries under section 62.
- (2) This duty arises irrespective of any local connection which the applicant may have with the district of another local housing authority.

#### **64 Notification of decision and reasons.**

- (1) On completing their inquiries under section 62, the local housing authority shall notify the applicant of their decision on the question whether he is homeless or threatened with homelessness.
- (2) If they notify him that their decision is that he is homeless or threatened with homelessness, they shall at the same time notify him of their decision on the question whether he has a priority need.
- (3) If they notify him that their decision is that he has a priority need, they shall at the same time notify him—
  - (a) of their decision whether he became homeless or threatened with homelessness intentionally, and
  - (b) whether they have notified or propose to notify another local housing authority under section 67 (referral of application on grounds of local connection).
- (4) If the local housing authority notify the applicant—
  - (a) that they are not satisfied that he is homeless or threatened with homelessness, or

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- (b) that they are not satisfied that he has a priority need, or
  - (c) that they are satisfied that he became homeless or threatened with homelessness intentionally, or
  - (d) that they have notified or propose to notify another local housing authority under section 67 (referral of application on grounds of local connection),
- they shall at the same time notify him of their reasons.
- (5) The notice required to be given to a person under this section shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

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

C48 S. 64 modified (26.7.1993) by 1993 c. 23, s. 4(5), Sch. 1 para. 3(4) (with Sch. 1 para. 8); S.I. 1993/1655, art. 2.

**65 Duties to persons found to be homeless.**

- (1) This section has effect as regards the duties owed by the local housing authority to an applicant where they are satisfied that he is homeless.
- (2) Where they are satisfied that he has a priority need and are not satisfied that he became homeless intentionally, they shall, unless they notify another local housing authority in accordance with section 67 (referral of application on grounds of local connection), secure that accommodation becomes available for his occupation.
- (3) Where they are satisfied that he has priority need but are also satisfied that he became homeless intentionally, they shall—
  - (a) secure that accommodation is made available for his occupation for such period as they consider will give him a reasonable opportunity of securing accommodation for his occupation, and
  - (b) furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.
- (4) Where they are not satisfied that he has a priority need, they shall furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation becomes available for his occupation.

**66 Duties to persons found to be threatened with homelessness.**

- (1) This section has effect as regards the duties owed by the local housing authority to an applicant where they are satisfied that he is threatened with homelessness.
- (2) Where they are satisfied that he has a priority need and are not satisfied that he became threatened with homelessness intentionally, they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.
- (3) Where—
  - (a) they are not satisfied that he has a priority need, or

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(b) they are satisfied that he has a priority need but are also satisfied that he became threatened with homelessness intentionally,  
 they shall furnish him with advice and such assistance as they consider appropriate in the circumstances in any attempts he may make to secure that accommodation does not cease to be available for his occupation.

(4) Subsection (2) does not affect any right of the local housing authority, whether by virtue of a contract, enactment or rule of law, to secure vacant possession of accommodation.

## 67 Referral of application to another local housing authority.

(1) If the local housing authority—

- (a) are satisfied that an applicant is homeless and has a priority need, and are not satisfied that he became homeless intentionally, but
- (b) are of opinion that the conditions are satisfied for referral of his application to another local housing authority in England, Wales or Scotland, they may notify that other authority of the fact that his application has been made and that they are of that opinion.

(2) The conditions for referral of an application to another local housing authority are—

- (a) that neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,
- (b) that the applicant or a person who might reasonably be expected to reside with him has a local connection with the district of that other authority, and
- (c) that neither the applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic violence in that other district.

(3) For this purpose a person runs the risk of domestic violence—

- (a) if he runs the risk of violence from a person with whom, but for the risk of violence, he might reasonably be expected to reside, or from a person with whom he formerly resided, or
- (b) if he runs the risk of threats of violence from such a person which are likely to be carried out.

(4) The question whether the conditions for referral of an application are satisfied shall be determined by agreement between the notifying authority and the notified authority or, in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order made by statutory instrument.

(5) An order may direct that the arrangements shall be—

- (a) those agreed by any relevant authorities or associations of relevant authorities, or
- (b) in default of such agreement, such arrangements as appear to the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.

(6) No order shall be made unless a draft of the order has been approved by resolution of each House of Parliament.



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## **68 Duties to persons whose applications are referred.**

- (1) Where, in accordance with section 67(1), a local housing authority notify another authority of an application, the notifying authority shall secure that accommodation is available for occupation by the applicant until it is determined whether the conditions for referral of his application to the other authority are satisfied.
- (2) If it is determined that the conditions for referral are satisfied, the notified authority shall secure that accommodation becomes available for occupation by the applicant; if it is determined that the conditions are not satisfied, the notifying authority shall secure that accommodation becomes available for occupation by him.
- (3) When the matter has been determined, the notifying authority shall notify the applicant—
  - (a) whether they or the notified authority are the authority whose duty it is to secure that accommodation becomes available for his occupation, and
  - (b) of the reasons why the authority subject to that duty are subject to it.
- (4) The notice required to be given to a person under subsection (3) shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

## **69 Provisions supplementary to ss. 63, 65 and 68.**

- [<sup>F61</sup>(1) A local housing authority may perform any duty under section 65 or 68 (duties to persons found to be homeless) to secure that accommodation becomes available for the occupation of a person—
- (a) by making available suitable accommodation held by them under Part II (provision of housing) or any enactment, or
  - (b) by securing that he obtains suitable accommodation from some other person, or
  - (c) by giving him such advice and assistance as will secure that he obtains suitable accommodation from some other person,
- and in determining whether accommodation is suitable they shall have regard to Part IX (slum clearance), X (overcrowding) and XI (houses in multiple occupation) of this Act.]
- (2) A local housing authority may require a person to whom they were subject to a duty under section 63, 65 or 68 (interim duty to accommodate pending inquiries and duties to persons found to be homeless)—
    - (a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or
    - (b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

### **Textual Amendments**

**F61** S. 69(1) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 14\(3\)](#)

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## **70 Protection of property of homeless persons and persons threatened with homelessness.**

- (1) This section applies where a local housing authority have reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom they owe a duty under section 63 (interim duty to accommodate pending inquiries), that he may be homeless) and that—
  - (a) there is a danger of loss of, or danger to, any personal property of his by reason of his inability to protect it or deal with it, and
  - (b) no other suitable arrangements have been or are being made.
- (2) If the authority have become subject to a duty towards the applicant under section 63, 65(2) or (3)(a), 66(2) or 68 (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the property or prevent or mitigate damage to it; and if they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.
- (3) The authority may for the purposes of this section—
  - (a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and
  - (b) deal with any personal property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.
- (4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to—
  - (a) the making and recovery by the authority of reasonable charges for the action taken, or
  - (b) the disposal by the authority, in such circumstances as may be specified, of property in relation to which they have taken action.
- (5) When in the authority's opinion there is no longer any reason to believe that there is a danger of loss of or damage to a person's personal property by reason of his inability to protect it or deal with it, the authority cease to have any duty or power to take action under this section; but property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store continue to have effect, with any necessary modifications.
- (6) Where the authority—
  - (a) cease to be subject to a duty to take action under this section in respect of an applicant's property, or
  - (b) cease to have power to take such action, having previously taken such action,they shall notify the applicant of that fact and of the reason why they are of opinion that there is no longer any reason to believe that there is a danger of loss of or damage to his personal property by reason of his inability to protect it or deal with it.
- (7) The notification shall be given to the applicant—
  - (a) by delivering it to him, or
  - (b) by leaving it, or sending it to him, at his last known address.
- (8) References in this section to personal property of the applicant include personal property of any person who might reasonably be expected to reside with him.

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### *Administrative provisions*

#### **71 Guidance to authorities by the Secretary of State.**

- (1) In relation to homeless persons and persons threatened with homelessness, a relevant authority shall have regard in the exercise of their functions to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

#### **72 Co-operation between authorities.**

Where a local housing authority—

- (a) request another local housing authority in England, Wales or Scotland, a new town corporation, a registered housing association [<sup>F62</sup>a housing action trust] or [<sup>F63</sup>Scottish Homes] to assist them in the discharge of their functions under sections 62, 63, 65 to 67 and 68(1) and (2) (which relate to homelessness and threatened homelessness as such),
- (b) request a social services authority in England, Wales or Scotland to exercise any of their functions in relation to a case which the local housing authority are dealing with under those provisions, or
- (c) request another local housing authority in England, Wales or Scotland to assist them in the discharge of their functions under section 70 (protection of property of homeless persons and persons threatened with homelessness),

the authority [<sup>F64</sup>or other body] to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

#### **Textual Amendments**

**F62** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 70](#)

**F63** By [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), [ss. 1, 3\(3\)](#), [Sch. 2 para. 1](#) it is provided that for the reference to “the Scottish Special Housing Association” there shall be substituted a reference to “Scottish Homes”

**F64** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 70](#)

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

**C49** [S. 72](#); it is provided that [s. 72](#) shall be amended (S.) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), [ss. 38, 42\(2\), 335](#) (which by [s. 340\(3\)](#) is expressed to extend to Scotland only)

### *Assistance for voluntary organisations*

#### **73 Financial and other assistance for voluntary organisations concerned with homelessness.**

- (1) The Secretary of State, with the consent of the Treasury, may, upon such terms and subject to such conditions as he may determine, give to a voluntary organisation concerned with homelessness, or with matters relating to homelessness, assistance by way of grant or loan.

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- (2) A local housing authority may, upon such terms and subject to such conditions as they may determine, give to such a voluntary organisation such assistance as is mentioned in subsection (1), and may also assist such an organisation by—
- (a) permitting them to use premises belonging to the authority upon such terms and subject to such conditions as may be agreed,
  - (b) making available furniture or other goods, whether by way of gift, loan or otherwise, and
  - (c) making available the services of staff employed by the authority.
- (3) No assistance shall be given under subsection (1) or (2) unless the voluntary organisation first give an undertaking—
- (a) that they will use the money, furniture or other goods or premises made available to them for a specified purpose, and
  - (b) that they will, if the person giving the assistance serves notice on them requiring them to do so, furnish, within the period of 21 days beginning with the date on which the notice is served, a certificate giving such information as may reasonably be required by the notice with respect to the manner in which the assistance given to them is being used.
- (4) The conditions subject to which assistance is given under this section shall in all cases include, in addition to any conditions determined or agreed under subsection (1) or (2), conditions requiring the voluntary organisation to—
- (a) keep proper books of account and have them audited in such manner as may be specified,
  - (b) keep records indicating how they have used the money, furniture or other goods or premises made available to them, and
  - (c) submit the books of account and records for inspection by the person giving the assistance.
- (5) If it appears to the person giving the assistance that the voluntary organisation have failed to carry out their undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from the organisation an amount equal to the amount of the assistance; but no sum is so recoverable unless he has first served on the voluntary organisation a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

#### *Supplementary provisions*

#### **74 False statements, withholding information and failure to disclose change of circumstances.**

- (1) If a person with intent to induce a local housing authority to believe, in connection with the exercise of their functions under this Part, that he or another person—
- (a) is homeless or threatened with homelessness, or
  - (b) has a priority need, or
  - (c) did not become homeless or threatened with homelessness intentionally,
- knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions, he commits a summary offence.

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- (2) If before an applicant receives notification of the local housing authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible; and the authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).
- (3) A person who fails to comply with subsection (2) commits a summary offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.
- (4) A person guilty of an offence under this section is liable on conviction to a fine not exceeding level 4 on the standard scale.

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

**C50** S. 74 applied (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 5** (with **Sch. 1 para. 8**); S.I. 1993/1655, **art. 2**.

**75 Meaning of accommodation available for occupation.**

For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

**76 Application of this Part to cases arising in Scotland.**

- (1) Sections 67 and 68 (referral of application to another local housing authority and duties to persons whose applications are referred) apply—
  - (a) to applications referred by a housing authority in Scotland in pursuance of section <sup>F65</sup>5(1) of the <sup>M22</sup>Housing (Homeless Persons) Act 1977<sup>F65</sup>33 and 34 of the Housing (Scotland) Act 1987], and
  - (b) to persons whose applications are so transferred,as they apply to cases arising under this Part.
- (2) Section 72 (duty of other authorities to co-operate with local housing authority) applies to a request by a housing authority in Scotland under section <sup>F66</sup>9(1) of the Housing (Homeless Persons) Act 1977<sup>F66</sup>38 of the Act of 1987] as it applies to a request by a local housing authority in England or Wales.
- (3) In this Part, in relation to Scotland—
  - (a) “local housing authority” means a district or islands council and references to the district of such an authority are to the area of that council,
  - (b) “social services authority” means a local authority for the purposes of the <sup>M23</sup>Social Work (Scotland) Act 1968, that is to say, a regional or islands council;and in section 72(a) (requests for co-operation) “new town corporation” includes a development corporation established under the <sup>M24</sup>New Towns (Scotland) 1968.

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### Textual Amendments

- F65** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), [Sch. 23 para. 30\(1\)\(a\)](#) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that for “5(1) of the Housing (Homeless Persons) Act 1977” there is substituted (S.) “33 and 34 of the Housing (Scotland) Act 1987”
- F66** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), [Sch. 23 para. 30\(1\)\(b\)](#) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that for “9(1) of the Housing (Homeless Persons) Act 1977” there is substituted (S.) “38 of the Act of 1987”

### Marginal Citations

- M22** 1977 c. 48.  
**M23** 1968 c. 49.  
**M24** 1968 c. 16.

## 77 Minor definitions.

In this Part—

“relevant authority” means a local housing authority or social services authority;

“social services authority” means a local authority for the purposes of the <sup>M25</sup>Local Authority Social Services Act 1970, as defined in section 1 of that Act;

“voluntary organisation” means a body, not being a public or local authority, whose activities are carried on otherwise than for profit.

### Marginal Citations

- M25** 1970 c. 42.

## 78 Index of defined expressions: Part III.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

accommodation available for occupation	section 75.
applicant (for housing accommodation)	section 62(1).
district (of a local housing authority)	sections 2(1) and 76(3).
homeless	sections 58(1) to (3).
housing association	section 5(1).
intentionally homeless or threatened with homelessness	section 60.
local connection (in relation to the district of a local housing authority)	section 61.
local housing authority (in England and Wales)(in Scotland)	section 1, 2(2).

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	section 76(3).
new town corporation	sections 4(b) and 76(3).
priority need (for accommodation)	section 59.
registered (in relation to a housing association)	section 5(4).
regular armed forces of the Crown	section 622.
relevant authority	section 77.
securing accommodation for a person's occupation	section 75.
social services authority	sections 76(3) and 77.
standard scale (in reference to the maximum fine on summary conviction)	section 622.
threatened with homelessness	section 58(4).
voluntary organisation	section 77.

## PART IV

### SECURE TENANCIES AND RIGHTS OF SECURE TENANTS

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

- C51** S. 47, 48, 50, 51, Pt. IV(ss. 79–117) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 paras. 22](#) and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 61](#)
- C52** Pt. IV (ss. 79–117) modified (1.4.1995) by [S.I. 1995/401](#), art. 18, [Sch. para. 8\(c\)](#)
- C53** Pt. IV (ss. 79–117) extended (1.10.1997) by [1996 c. 27, ss. 53, 63\(4\)](#), [Sch. 7 Pt. II para. 7\(3\)\(6\)](#) (with [Sch. 9 paras. 8–10](#)); [S.I. 1997/1892](#), [art. 3](#) (subject to transitional provisions in art. 4(b)(c))

#### *Security of tenure*

#### 79 Secure tenancies.

- (1) A tenancy under which a dwelling-house is let as a separate dwelling is a secure tenancy at any time when the conditions described in sections 80 and 81 as the landlord condition and the tenant condition are satisfied.
- (2) Subsection (1) has effect subject to—
  - (a) the exceptions in Schedule 1 (tenancies which are not secure tenancies),
  - (b) sections 89(3) and (4) and 90(3) and (4) (tenancies ceasing to be secure after death of tenant), and
  - (c) sections 91(2) and 93(2) (tenancies ceasing to be secure in consequence of assignment of subletting).
- (3) The provisions of this Part apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

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- (4) Subsection (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

**80 The landlord condition.**

- (1) The landlord condition is that the interest of the landlord belongs to one of the following authorities or bodies—
  - a local authority,
  - a new town corporation,
  - [<sup>F67</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - ..... <sup>F68</sup>
  - ..... <sup>F68</sup>
  - ..... <sup>F69</sup> housing co-operative to which this section applies.
- (2) ..... <sup>F70</sup>
- (3) If a co-operative housing association ceases to be registered, it shall, within the period of 21 days beginning with the date on which it ceases to be registered, notify each of its tenants who thereby becomes a secure tenant, in writing, that he has become a secure tenant.
- [<sup>F71</sup>(4) This section applies to a housing co-operative within the meaning of section 27B (agreements under certain superseded provisions) where the dwelling-house is comprised in a housing co-operative agreement within the meaning of that section.]

**Textual Amendments**

**F67** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(2)

**F68** Words repealed by virtue of [Housing Act 1988 \(c.50, SIF 61\)](#), s. 140(1)(2), Sch. 17 Pt. I para. 106, [Sch. 18](#), note 4

**F69** Words repealed by [Housing Act 1988 \(c.50, SIF 61\)](#), s. 140(2), [Sch. 18](#), note 4

**F70** S. 80(2) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#), note 4

**F71** S. 80(4) substituted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 26](#)

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

**C54** S. 80 extended (5.7.1994) by [1994 c. 19, s. 39](#), [Sch. 13 para. 21\(c\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))

**81 The tenant condition.**

The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home; or, where the tenancy is a joint tenancy, that each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.



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## 82 Security of tenure.

- (1) A secure tenancy which is either—
  - (a) a weekly or other periodic tenancy, or
  - (b) a tenancy for a term certain but subject to termination by the landlord,
 cannot be brought to an end by the landlord except by obtaining an order of the court for the possession of the dwelling-house or an order under subsection (3).
- (2) Where the landlord obtains an order for the possession of the dwelling-house, the tenancy ends on the date on which the tenant is to give up possession in pursuance of the order.
- (3) Where a secure tenancy is a tenancy for a term certain but with a provision for re-entry or forfeiture, the court shall not order possession of the dwelling-house in pursuance of that provision, but in a case where the court would have made such an order it shall instead make an order terminating the tenancy on a date specified in the order and section 86 (periodic tenancy arising on termination of fixed term) shall apply.
- (4) Section 146 of the <sup>M26</sup>Law of Property Act 1925 (restriction on and relief against forfeiture), except subsection (4) (vesting in under-lessee), and any other enactment or rule of law relating to forfeiture, shall apply in relation to proceedings for an order under subsection (3) of this section as if they were proceedings to enforce a right of re-entry or forfeiture.

### Marginal Citations

M26 1925 c. 20.

VALID FROM 30/06/2004

### <sup>F72</sup>82A Demotion because of anti-social behaviour

- (1) This section applies to a secure tenancy if the landlord is—
  - (a) a local housing authority;
  - (b) a housing action trust;
  - (c) a registered social landlord.
- (2) The landlord may apply to a county court for a demotion order.
- (3) A demotion order has the following effect—
  - (a) the secure tenancy is terminated with effect from the date specified in the order;
  - (b) if the tenant remains in occupation of the dwelling-house after that date a demoted tenancy is created with effect from that date;
  - (c) it is a term of the demoted tenancy that any arrears of rent payable at the termination of the secure tenancy become payable under the demoted tenancy;
  - (d) it is also a term of the demoted tenancy that any rent paid in advance or overpaid at the termination of the secure tenancy is credited to the tenant's liability to pay rent under the demoted tenancy.

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- (4) The court must not make a demotion order unless it is satisfied—
- (a) that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, and
  - (b) that it is reasonable to make the order.
- (5) Each of the following has effect in respect of a demoted tenancy at the time it is created by virtue of an order under this section as it has effect in relation to the secure tenancy at the time it is terminated by virtue of the order—
- (a) the parties to the tenancy;
  - (b) the period of the tenancy;
  - (c) the amount of the rent;
  - (d) the dates on which the rent is payable.
- (6) Subsection (5)(b) does not apply if the secure tenancy was for a fixed term and in such a case the demoted tenancy is a weekly periodic tenancy.
- (7) If the landlord of the demoted tenancy serves on the tenant a statement of any other express terms of the secure tenancy which are to apply to the demoted tenancy such terms are also terms of the demoted tenancy.
- (8) For the purposes of this section a demoted tenancy is—
- (a) a tenancy to which section 143A of the Housing Act 1996 applies if the landlord of the secure tenancy is a local housing authority or a housing action trust;
  - (b) a tenancy to which section 20B of the Housing Act 1988 applies if the landlord of the secure tenancy is a registered social landlord.]

#### Textual Amendments

**F72** S. 82A inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and otherwise 30.4.2005 for W.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 14\(2\), 93\(2\)](#); [S.I. 2004/1502](#), [s. 2\(a\)\(iii\)](#) (subject to [Sch.](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(ii\)](#) (subject to [Sch.](#)); [S.I. 2005/1225](#), [art. 2\(b\)](#)

### 83 Notice of proceedings for possession or termination.

- (1) The court shall not entertain—
- (a) proceedings for the possession of a dwelling-house let under a secure tenancy, or
  - (b) proceedings for the termination of a secure tenancy,
- unless the landlord has served on the tenant a notice complying with the provisions of this section.
- (2) The notice shall—
- (a) be in a form prescribed by regulations made by the Secretary of State,
  - (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house or for the termination of the tenancy, and
  - (c) give particulars of that ground.

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- (3) Where the tenancy is a periodic tenancy the notice—
- (a) shall also specify a date after which proceedings for the possession of the dwelling-house may be begun, and
  - (b) ceases to be in force twelve months after the date so specified;
- and the date so specified must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this section.
- (4) Where the tenancy is a periodic tenancy, the court shall not entertain any such proceedings unless they are begun after the date specified in the notice and at a time when the notice is still in force.
- (5) Where a notice under this section is served with respect to a secure tenancy for a term certain, it has effect also with respect to any periodic tenancy arising on the termination of that tenancy by virtue of section 86; and subsections (3) and (4) of this section do not apply to the notice.
- (6) Regulations under this section shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

VALID FROM 01/10/1996

**[<sup>F73</sup>83A Additional requirements in relation to certain proceedings for possession.**

- (1) Where a notice under section 83 has been served on a tenant containing the information mentioned in subsection (3)(a) of that section, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.
- (2) Where—
- (a) a notice under section 83 has been served on a tenant, and
  - (b) a date after which proceedings may be begun has been specified in the notice in accordance with subsection (4)(a) of that section,
- the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.
- (3) Where—
- (a) the ground or one of the grounds specified in a notice under section 83 is Ground 2A in Schedule 2 (domestic violence), and
  - (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,
- the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.
- This subsection has effect subject to subsection (5).
- (4) Where—

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- (a) Ground 2A in Schedule 2 is added to a notice under section 83 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under subsection (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This subsection has effect subject to subsection (5).

- (5) Where subsection (3) or (4) applies and Ground 2 in Schedule 2 (nuisance or other anti-social behaviour) is also specified in the notice under section 83, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.
- (6) A notice under this subsection shall—
  - (a) state that proceedings for the possession of the dwelling-house have begun,
  - (b) specify the ground or grounds on which possession is being sought, and
  - (c) give particulars of the ground or grounds.]

#### Textual Amendments

**F73** Ss. 83, 83A substituted for s. 83 (1.10.1996 for specified purposes and 4.2.1997 otherwise) by 1996 c. 52, s. 147(1); S.I. 1996/2402, art. 4; S.I. 1997/66, art. 2 (subject to savings in Sch.)

### 84 Grounds and orders for possession.

- (1) The court shall not make an order for the possession of a dwelling-house let under a secure tenancy except on one or more of the grounds set out in Schedule 2.
- (2) The court shall not make an order for possession—
  - (a) on the grounds set out in Part I of that Schedule (grounds 1 to 8), unless it considers it reasonable to make the order,
  - (b) on the grounds set out in Part II of that Schedule (grounds 9 to 11), unless it is satisfied that suitable accommodation will be available for the tenant when the order takes effect,
  - (c) on the grounds set out in Part III of that Schedule (grounds 12 to 16), unless it both considers it reasonable to make the order and is satisfied that suitable accommodation will be available for the tenant when the order takes effect;
 and Part IV of that Schedule has effect for determining whether suitable accommodation will be available for a tenant.
- (3) The court shall not make such an order on any of those grounds unless the ground is specified in the notice in pursuance of which proceedings for possession are begun; but the grounds so specified may be altered or added to with the leave of the court.

### 85 Extended discretion of court in certain proceedings for possession.

- (1) Where proceedings are brought for possession of a dwelling-house let under a secure tenancy on any of the grounds set out in Part I or Part III of Schedule 2 (grounds 1 to 8 and 12 to 16: cases in which the court must be satisfied that it is reasonable to

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make a possession order), the court may adjourn the proceedings for such period or periods as it thinks fit.

(2) On the making of an order for possession of such a dwelling-house on any of those grounds, or at any time before the execution of the order, the court may—

- (a) stay or suspend the execution of the order, or
- (b) postpone the date of possession,

for such period or periods as the court thinks fit.

(3) On such an adjournment, stay, suspension or postponement the court—

- (a) shall impose conditions with respect to the payment by the tenant of arrears of rent (if any) and rent or payments in respect of occupation after the termination of the tenancy (mesne profits), unless it considers that to do so would cause exceptional hardship to the tenant or would otherwise be unreasonable, and
- (b) may impose such other conditions as it thinks fit.

(4) If the conditions are complied with, the court may, if it thinks fit, discharge or rescind the order for possession.

(5) Where proceedings are brought for possession of a dwelling-house which is let under a secure tenancy and—

- (a) the tenant's spouse or former spouse, having rights of occupation under the <sup>M27</sup>Matrimonial Homes Act 1983, is then in occupation of the dwelling-house, and
- (b) the tenancy is terminated as a result of those proceedings,

the spouse or former spouse shall, so long as he or she remains in occupation, have the same rights in relation to, or in connection with, any adjournment, stay, suspension or postponement in pursuance of this section as he or she would have if those rights of occupation were not affected by the termination of the tenancy.

#### Marginal Citations

M27 1983 c. 19.

VALID FROM 30/06/2004

#### [<sup>F74</sup>85A Proceedings for possession: anti-social behaviour

(1) This section applies if the court is considering under section 84(2)(a) whether it is reasonable to make an order for possession on ground 2 set out in Part 1 of Schedule 2 (conduct of tenant or other person).

(2) The court must consider, in particular—

- (a) the effect that the nuisance or annoyance has had on persons other than the person against whom the order is sought;
- (b) any continuing effect the nuisance or annoyance is likely to have on such persons;
- (c) the effect that the nuisance or annoyance would be likely to have on such persons if the conduct is repeated.]

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### Textual Amendments

**F74** S. 85A inserted (30.6.2004 for E. and 30.9.2004 for W.) by [Anti-social Behaviour Act 2004 \(c. 38\)](#), [ss. 16\(1\)](#), [93\(2\)](#); [S.I. 2004/1502](#), [art. 2\(a\)\(v\)](#) (subject to [Sch.](#)); [S.I. 2004/2557](#), [art. 2\(a\)\(iii\)](#), [Sch.](#)

## 86 Periodic tenancy arising on termination of fixed term.

(1) Where a secure tenancy (“the first tenancy”) is a tenancy for a term certain and comes to an end—

- (a) by effluxion of time, or
- (b) by an order of the court under section 82(3) (termination in pursuance of provision for re-entry or forfeiture),

a periodic tenancy of the same dwelling-house arises by virtue of this section, unless the tenant is granted another secure tenancy of the same dwelling-house (whether a tenancy for a term certain or a periodic tenancy) to begin on the coming to an end of the first tenancy.

(2) Where a periodic tenancy arises by virtue of this section—

- (a) the periods of the tenancy are the same as those for which rent was last payable under the first tenancy, and
- (b) the parties and the terms of the tenancy are the same as those of the first tenancy at the end of it;

except that the terms are confined to those which are compatible with a periodic tenancy and do not include any provision for re-entry or forfeiture.

### *Succession on death of tenant*

## 87 Persons qualified to succeed tenant.

A person is qualified to succeed the tenant under a secure tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant’s death and either—

- (a) he is the tenant’s spouse, or
- (b) he is another member of the tenant’s family and has resided with the tenant throughout the period of twelve months ending with the tenant’s death;

unless, in either case, the tenant was himself a successor, as defined in section 88.

### Modifications etc. (not altering text)

**C55** s. 87 modified (1.11.1993) by [1993 c. 28](#), s. 37, [Sch. 10 para. 2\(3\)](#); [S.I. 1993/2134](#), [arts. 2](#), [5\(a\)](#).

## 88 Cases where the tenant is a successor.

(1) The tenant is himself a successor if—

- (a) the tenancy vested in him by virtue of section 89 (succession to a periodic tenancy), or
- (b) he was a joint tenant and has become the sole tenant, or

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- (c) the tenancy arose by virtue of section 86 (periodic tenancy arising on ending of term certain) and the first tenancy there mentioned was granted to another person or jointly to him and another person, or
  - (d) he became the tenant on the tenancy being assigned to him (but subject to subsections (2) and (3)), or
  - (e) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under section 24 of the <sup>M28</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) is a successor only if the other party to the marriage was a successor.
- (3) A tenant to whom the tenancy was assigned by virtue of section 92 (assignments by way of exchange) is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that section.
- (4) Where within six months of the coming to an end of a secure tenancy which is a periodic tenancy (“the former tenancy”) the tenant becomes a tenant under another secure tenancy which is a periodic tenancy, and—
- (a) the tenant was a successor in relation to the former tenancy, and
  - (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,
- the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

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

**C56** s. 88 modified (1.11.1993) by 1993 c. 28, s. 37, **Sch. 10 para.2(3)**; S.I. 1993/2134, **arts. 2, 5(a)**.

**Marginal Citations**

**M28** 1973 c. 18.

## 89 Succession to periodic tenancy.

- (1) This section applies where a secure tenant dies and the tenancy is a periodic tenancy.
- (2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this section in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—
- (a) the tenant’s spouse is to be preferred to another member of the tenant’s family;
  - (b) of two or more other members of the tenant’s family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.
- (3) Where there is no person qualified to succeed the tenant and the tenancy is vested or otherwise disposed of in the course of the administration of the tenant’s estate, the tenancy ceases to be a secure tenancy unless the vesting or other disposal is in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings).

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- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

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

C57 S. 89 modified (1.11.1993) by 1993 c. 28, s. 37, Sch. 10 para. 2(3); S.I. 1993/2134, arts. 2, 5(a).

**90 Devolution of term certain.**

- (1) This section applies where a secure tenant dies and the tenancy is a tenancy for a term certain.
- (2) The tenancy remains a secure tenancy until—
- (a) it is vested or otherwise disposed of in the course of the administration of the tenant's estate, as mentioned in subsection (3), or
  - (b) it is known that when it is so vested or disposed of it will not be a secure tenancy.
- (3) The tenancy ceases to be a secure tenancy on being vested or otherwise disposed of in the course of administration of the tenant's estate, unless—
- (a) the vesting or other disposal is in pursuance of an order made under section 24 of the <sup>M29</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings), or
  - (b) the vesting or other disposal is to a person qualified to succeed the tenant.
- (4) A tenancy which ceases to be a secure tenancy by virtue of this section cannot subsequently become a secure tenancy.

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

C58 S. 90 modified (1.11.1993) by 1993 c. 28, s. 37, Sch. 10 para. 2(3); S.I. 1993/2134, arts. 2, 5(a).

**Marginal Citations**

M29 1973 c. 18.

*Assignment, lodgers and subletting*

**91 Assignment in general prohibited.**

- (1) A secure tenancy which is—
- (a) a periodic tenancy, or
  - (b) a tenancy for a term certain granted on or after 5th November 1982,
- is not capable of being assigned except in the cases mentioned in subsection (3).
- (2) If a secure tenancy for a term certain granted before 5th November 1982 is assigned, then, except in the cases mentioned in subsection (3), it ceases to be a secure tenancy and cannot subsequently become a secure tenancy.
- (3) The exceptions are—



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- (a) an assignment in accordance with section 92 (assignment by way of exchange);
- (b) an assignment in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
- (c) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.

## 92 Assignments by way of exchange.

- (1) It is a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to another secure tenant who satisfies the condition in subsection (2) [<sup>F75</sup>or to an assured tenant who satisfies the conditions in subsection (2A)].
- (2) The condition is that the other secure tenant has the written consent of his landlord to an assignment of his tenancy either to the first-mentioned tenant or to another secure tenant who satisfies the condition in this subsection.

[<sup>F76</sup>(2A) The conditions to be satisfied with respect to an assured tenant are—

- (a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and
  - (b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2).]
- (3) The consent required by virtue of this section shall not be withheld except on one or more of the grounds set out in Schedule 3, and if withheld otherwise than on one of those grounds shall be treated as given.
  - (4) The landlord may not rely on any of the grounds set out in Schedule 3 unless he has, within 42 days of the tenant's application for the consent, served on the tenant a notice specifying the ground and giving particulars of it.
  - (5) Where rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed, the consent required by virtue of this section may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.
  - (6) Except as provided by subsection (5), a consent required by virtue of this section cannot be given subject to a condition, and a condition imposed otherwise than as so provided shall be disregarded.

### Textual Amendments

**F75** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 163\(1\)](#)

**F76** [S. 92\(2A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 163\(3\)](#)

## 93 Lodgers and subletting.

- (1) It is a term of every secure tenancy that the tenant—
  - (a) may allow any persons to reside as lodgers in the dwelling-house, but

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(b) will not, without the written consent of the landlord, sublet or part with possession of part of the dwelling-house.

(2) If the tenant under a secure tenancy parts with the possession of the dwelling-house or sublets the whole of it (or sublets first part of it and then the remainder), the tenancy ceases to be a secure tenancy and cannot subsequently become a secure tenancy.

#### **94 Consent to subletting.**

(1) This section applies to the consent required by virtue of section 93(1)(b) (landlord's consent to subletting of part of dwelling-house).

(2) Consent shall not be unreasonably withheld (and if unreasonably withheld shall be treated as given), and if a question arises whether the withholding of consent was unreasonable it is for the landlord to show that it was not.

(3) In determining that question the following matters, if shown by the landlord, are among those to be taken into account—

- (a) that the consent would lead to overcrowding of the dwelling-house within the meaning of Part X (overcrowding);
- (b) that the landlord proposes to carry out works on the dwelling-house, or on the building of which it forms part, and that the proposed works will affect the accommodation likely to be used by the sub-tenant who would reside in the dwelling-house as a result of the consent.

(4) Consent may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.

(5) Consent cannot be given subject to a condition (and it purporting to be given subject to a condition shall be treated as given unconditionally).

(6) Where the tenant has applied in writing for consent, then—

- (a) if the landlord refuses to give consent, it shall give the tenant a written statement of the reasons why consent was refused, and
- (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

#### **95 Assignment or subletting where tenant condition not satisfied.**

(1) This section applies to a tenancy which is not a secure tenancy but would be if the tenant condition referred to in section 81 (occupation by the tenant) were satisfied.

(2) Sections 91 and 93(2) (restrictions on assignment or sub-letting of whole dwelling-house) apply to such a tenancy as they apply to a secure tenancy, except that—

- (a) section 91(3)(b) and (c) (assignments excepted from restrictions) do not apply to such a tenancy for a term certain granted before 5th November 1982, and
- (b) references to the tenancy ceasing to be secure shall be disregarded, without prejudice to the application of the remainder of the provisions in which those references occur.

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### *Repairs and improvements*

#### **96 Right to carry out repairs.**

- (1) The Secretary of State may by regulations make a scheme for entitling secure tenants, subject to and in accordance with the provisions of the scheme—
  - (a) to carry out to the dwelling-houses of which they are secure tenants repairs which their landlords are obliged by repairing covenants to carry out, and
  - (b) after carrying out the repairs, to recover from their landlords such sums as may be determined by or under the scheme.
- (2) The regulations may make such procedural, incidental, supplementary and transitional provision as may appear to the Secretary of State to be necessary or expedient, and may in particular—
  - (a) provide for questions arising under the scheme to be referred to and determined by the county court;
  - (b) provide that where a secure tenant makes application under the scheme his landlord's obligation under the repairing covenants shall cease to apply for such period and to such extent as may be determined by or under the scheme.
- (3) The regulations may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section “repairing covenant”, in relation to a dwelling-house, means a covenant, whether express or implied, obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house.

#### **97 Tenant's improvements require consent.**

- (1) It is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.
- (2) In this Part “improvement” means any alteration in, or addition to, a dwelling-house, and includes—
  - (a) any addition to or alteration in landlord's fixtures and fittings,
  - (b) any addition or alteration connected with the provision of services to the dwelling-house,
  - (c) the erection of a wireless or television aerial, and
  - (d) the carrying out of external decoration.
- (3) The consent required by virtue of subsection (1) shall not be unreasonably withheld, and if unreasonably withheld shall be treated as given.
- (4) The provisions of this section have effect, in relation to secure tenancies, in place of section 19(2) of the <sup>M30</sup>Landlord and Tenant Act 1927 (general provisions as to covenants, &c. not to make improvements without consent).

#### **Marginal Citations**

M30 1927 c. 36.

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## 98 Provisions as to consents required by s. 97.

- (1) If a question arises whether the withholding of a consent required by virtue of section 97 (landlord's consent to improvements) was unreasonable, it is for the landlord to show that it was not.
- (2) In determining that question the court shall, in particular, have regard to the extent to which the improvement would be likely—
  - (a) to make the dwelling-house, or any other premises, less safe for occupiers,
  - (b) to cause the landlord to incur expenditure which it would be unlikely to incur if the improvement were not made, or
  - (c) to reduce the price which the dwelling-house would fetch if sold on the open market or the rent which the landlord would be able to charge on letting the dwelling-house.
- (3) A consent required by virtue of section 97 may be validly given notwithstanding that it follows, instead of preceding, the action requiring it.
- (4) Where a tenant has applied in writing for a consent which is required by virtue of section 97—
  - (a) the landlord shall if it refuses consent give the tenant a written statement of the reason why consent was refused, and
  - (b) if the landlord neither gives nor refuses to give consent within a reasonable time, consent shall be taken to have been withheld.

## 99 Conditional consent to improvements.

- (1) Consent required by virtue of section 97 (landlord's consent to improvements) may be given subject to conditions.
- (2) If the tenant has applied in writing for consent and the landlord gives consent subject to an unreasonable condition, consent shall be taken to have been unreasonably withheld.
- (3) If a question arises whether a condition was reasonable, it is for the landlord to show that it was.
- (4) A failure by a secure tenant to satisfy a reasonable condition imposed by his landlord in giving consent to an improvement which the tenant proposes to make, or has made, shall be treated for the purposes of this Part as a breach by the tenant of an obligation of his tenancy.

VALID FROM 01/02/1994

### <sup>F77</sup>99A Right to compensation for improvements.

- (1) The powers conferred by this section shall be exercisable as respects cases where a secure tenant has made an improvement and—
  - (a) the work on the improvement was begun not earlier than the commencement of section 122 of the Leasehold Reform, Housing and Urban Development Act 1993,
  - (b) the landlord, or a predecessor in title of the landlord (being a local authority), has given its written consent to the improvement or is to be treated as having given its consent, and

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- (c) at the time when the tenancy comes to an end the landlord is a local authority and the tenancy is a secure tenancy.
- (2) The Secretary of State may make regulations for entitling the qualifying person or persons (within the meaning given by section 99B)—
- (a) at the time when the tenancy comes to an end, and
  - (b) subject to and in accordance with the regulations,
- to be paid compensation by the landlord in respect of the improvement.
- (3) The regulations may provide that compensation shall be not payable if—
- (a) the improvement is not of a prescribed description,
  - (b) the tenancy comes to an end in prescribed circumstances,
  - (c) compensation has been paid under section 100 in respect of the improvement, or
  - (d) the amount of any compensation which would otherwise be payable is less than a prescribed amount;
- and for the purposes of this subsection a prescribed description may be framed by reference to any circumstances whatever.
- (4) The regulations may provide that the amount of any compensation payable shall not exceed a prescribed amount but, subject to that, shall be determined by the landlord, or calculated, in such manner, and taking into account such matters, as may be prescribed.
- (5) The regulations may also make such procedural, incidental, supplementary and transitional provisions as may appear to the Secretary of State necessary or expedient, and may in particular—
- (a) provide for the manner in which and the period within which claims for compensation under the regulations are to be made, and for the procedure to be followed in determining such claims,
  - (b) prescribe the form of any document required to be used for the purposes of or in connection with such claims,
  - (c) provide for questions arising under the regulations to be determined by the district valuer or the county court, and
  - (d) enable the landlord to set off against any compensation payable under the regulations any sums owed to it by the qualifying person or persons.
- (6) Nothing in subsections (3) to (5) shall be taken as prejudicing the generality of subsection (2).
- (7) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which (except in the case of regulations making only such provision as is mentioned in subsection (5)(b)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) For the purposes of this section and section 99B, a tenancy shall be treated as coming to an end if—
- (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or

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- (b) it is assigned, with the consent of the landlord—
- (i) to another secure tenant who satisfies the condition in subsection (2) of section 92 (assignments by way of exchange), or
  - (ii) to an assured tenant who satisfies the conditions in subsection (2A) of that section.]

#### Textual Amendments

**F77** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).

#### [<sup>F78</sup>99B Persons qualifying for compensation.

- (1) A person is a qualifying person for the purposes of section 99A(2) if—
- (a) he is, at the time when the tenancy comes to an end, the tenant or, in the case of a joint tenancy at that time, one of the tenants, and
  - (b) he is a person to whom subsection (2) applies.
- (2) This subsection applies to—
- (a) the improving tenant;
  - (b) a person who became a tenant jointly with the improving tenant;
  - (c) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the improving tenant or in the course of the administration of his estate;
  - (d) a person to whom the tenancy was assigned by the improving tenant and who would have been qualified to succeed him if he had died immediately before the assignment;
  - (e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under [<sup>F79</sup>section 23A or 24]] of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
  - (f) a spouse or former spouse of the improving tenant to whom the tenancy has been transferred by an order under paragraph 2 of Schedule 1 to the Matrimonial Homes Act 1983.
- (3) Subsection (2)(c) does not apply in any case where the tenancy ceased to be a secure tenancy by virtue of section 89(3) or, as the case may be, section 90(3).
- (4) Where, in the case of two or more qualifying persons, one of them (“the missing person”) cannot be found—
- (a) a claim under regulations made under section 99A may be made by, and compensation under those regulations may be paid to, the other qualifying person or persons; but
  - (b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.
- (5) In this section “the improving tenant” means—
- (a) the tenant by whom the improvement mentioned in section 99A(1) was made, or

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- (b) in the case of a joint tenancy at the time when the improvement was made, any of the tenants at that time.

#### Textual Amendments

- F78** S. 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).
- F79** Words in s. 99B(2)(e) substituted (*prosp.*) by 1996 c. 27, s. 66(1)(3), Sch. 8 Pt. I para. 34 (with Sch. 9 para. 5)

### 100 Power to reimburse cost of tenant's improvements.

- (1) Where a secure tenant has made an improvement and—
- the work on the improvement was begun on or after 3rd October, 1980,
  - the landlord, or a predecessor in title of the landlord, has given its written consent to the improvement or is treated as having given its consent, and
  - the improvement has materially added to the price which the dwelling-house may be expected to fetch if sold on the open market, or the rent which the landlord may be expected to be able to charge on letting the dwelling-house, the landlord may, at or after the end of the tenancy, make to the tenant (or his personal representatives) such payment in respect of the improvement as the landlord considers to be appropriate.
- (2) The amount which a landlord may pay under this section in respect of an improvement shall not exceed the cost, or likely cost, of the improvement after deducting the amount of any improvement grant, intermediate grant, special grant [<sup>F80</sup>or repairs grant][<sup>F80</sup>, repairs grant or common parts grant] under Part XV in respect of the improvement.
- [<sup>F81</sup>(2A) In subsection (2)—
- the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
  - the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]
- (3) The power conferred by this section to make such payments as are mentioned in subsection (1) is in addition to any other power of the landlord to make such payments.

#### Textual Amendments

- F80** Words “, repairs grant or common parts grant” substituted (*prosp.*) for words “or repairs grant” by Housing and Planning Act 1986 (c. 63, SIF 61), ss. 15, 57(2), Sch. 3 Pt. I para. 16(2)
- F81** S.100(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), Sch. 11 para. 66

### 101 Rent not to be increased on account of tenant's improvements.

- (1) This section applies where a person (the “improving tenant”) who is or was the secure tenant of a dwelling-house has lawfully made an improvement and has borne the whole or part of its cost; and for the purposes of this section a person shall be treated as having

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borne any cost which he would have borne but for an improvement grant, intermediate grant, special grant or <sup>F82</sup>, repairs grant or common parts grant] under Part XV.

<sup>F83</sup>(1A) In subsection (1)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
- (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]

(2) In determining, at any time whilst the improving tenant or his qualifying successor is a secure tenant of the dwelling-house, whether or to what extent to increase the rent, the landlord shall treat the improvement as justifying only such part of an increase which would otherwise be attributable to the improvement as corresponds to the part of the cost which was not borne by the tenant (and accordingly as not justifying an increase if he bore the whole cost).

(3) The following are qualifying successors of an improving tenant—

- (a) a person in whom the tenancy vested under section 89 (succession to periodic tenancy) on the death of the tenant;
- (b) a person to whom the tenancy was assigned by the tenant and who would have been qualified to succeed him if he had died immediately before the assignment,
- (c) a person to whom the tenancy was assigned by the tenant in pursuance of an order made under section 24 of the <sup>M31</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings);
- (d) a spouse or former spouse of the tenant to whom the tenancy has been transferred by an order under paragraph 22 of Schedule 1 to the <sup>M32</sup>Matrimonial Homes Act 1983.

(4) This section does not apply to an increase of rent attributable to rates.

#### Textual Amendments

**F82** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 15, 57(2), **Sch. 3 Pt. II para. 16(3)**

**F83** [S. 101\(1A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 67**

#### Marginal Citations

**M31** 1973 c. 18.

**M32** 1983 c. 19.

### *Variation of terms of tenancy*

#### 102 Variation of terms of secure tenancy.

(1) The terms of a secure tenancy may be varied in the following ways, and not otherwise—

- (a) by agreement between the landlord and the tenant;



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- (b) to the extent that the variation relates to rent or to payments in respect of rates or services, by the landlord or the tenant in accordance with a provision in the lease or agreement creating the tenancy, or in an agreement varying it;
  - (c) in accordance with section 103 (notice of variation of periodic tenancy).
- (2) References in this section and section 103 to variation include addition and deletion; and for the purposes of this section the conversion of a monthly tenancy into a weekly tenancy, or a weekly tenancy into a monthly tenancy, is a variation of a term of the tenancy, but a variation of the premises let under a tenancy is not.
- (3) This section and section 103 do not apply to a term of a tenancy which—
- (a) is implied by an enactment, or
  - (b) may be varied under section 93 of the <sup>M33</sup>Rent Act 1977 (housing association and other tenancies: increase of rent without notice to quit).
- (4) This section and section 103 apply in relation to the terms of a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of a fixed term) as they would have applied to the terms of the first tenancy mentioned in that section had that tenancy been a periodic tenancy.

#### Marginal Citations

M33 1977 c. 42.

### 103 Notice of variation of periodic tenancy.

- (1) The terms of a secure tenancy which is a periodic tenancy may be varied by the landlord by a notice of variation served on the tenant.
- (2) Before serving a notice of variation on the tenant the landlord shall serve on him a preliminary notice—
- (a) informing the tenant of the landlord's intention to serve a notice of variation,
  - (b) specifying the proposed variation and its effect, and
  - (c) inviting the tenant to comment on the proposed variation within such time, specified in the notice, as the landlord considers reasonable;
- and the landlord shall consider any comments made by the tenant within the specified time.
- (3) Subsection (2) does not apply to a variation of the rent, or of payments in respect of services or facilities provided by the landlord or of payments in respect of rates.
- (4) The notice of variation shall specify—
- (a) the variation effected by it, and
  - (b) the date on which it takes effect;
- and the period between the date on which it is served and the date on which it takes effect must be at least four weeks or the rental period, whichever is the longer.
- (5) The notice of variation, when served, shall be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.

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- (6) If after the service of a notice of variation the tenant, before the date on which the variation is to take effect, gives a valid notice to quit, the notice of variation shall not take effect unless the tenant, with the written agreement of the landlord, withdraws his notice to quit before that date.

#### *Provision of information and consultation*

### **104 Provision of information about tenancies.**

- (1) Every body which lets dwelling-houses under secure tenancies shall from time to time publish information about its secure tenancies, in such form as it considers best suited to explain in simple terms, and so far as it considers it appropriate, the effect of—
- (a) the express terms of its secure tenancies,
  - (b) the provisions of this Part and Part V (the right to buy), and
  - (c) the provisions of sections 11 to 16 of the <sup>M34</sup>Landlord and Tenant Act 1985 (landlord's repairing obligations),
- and shall ensure that so far as is reasonably practicable the information so published is kept up to date.
- (2) The landlord under a secure tenancy shall supply the tenant with—
- (a) a copy of the information for secure tenants published by it under subsection (1), and
  - (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;
- and the statement required by paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

#### **Marginal Citations**

**M34** 1985 c. 70.

### **105 Consultation on matters of housing management.**

- (1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—
- (a) to be informed of the authority's proposals in respect of the matter, and
  - (b) to make their views known to the authority within a specified period;
- and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.
- (2) For the purposes of this section, a matter is one of housing management if, in the opinion of the landlord authority, it relates to—
- (a) the management, maintenance, improvement or demolition of dwelling-houses let by the authority under secure tenancies, or
  - (b) the provision of services or amenities in connection with such dwelling-houses;

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but not so far as it relates to the rent payable under a secure tenancy or to charges for services or facilities provided by the authority.

(3) This section applies to matters of housing management which, in the opinion of the landlord authority, represent—

- (a) a new programme of maintenance, improvement or demolition, or
- (b) a change in the practice or policy of the authority,

and are likely substantially to affect either its secure tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).

(4) In the case of a landlord authority which is a local housing authority, the reference in subsection (2) to the provision of services or amenities is a reference only to the provision of services or amenities by the authority acting in its capacity as landlord of the dwelling-houses concerned.

(5) A landlord authority shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—

- (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public, and
- (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

(6) A landlord authority which is a registered housing association shall, instead of complying with paragraph (a) of subsection (5), send a copy of any document published under that subsection—

- (a) to the [<sup>F84</sup>Corporation], and
- (b) to the council of any district or London borough in which there are dwelling-houses let by the association under secure tenancies;

and a council to whom a copy is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.

#### Textual Amendments

**F84** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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

**C59** [S. 105](#) excluded by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 84(8)

### 106 Information about housing allocation.

(1) A landlord authority shall publish a summary of its rules—

- (a) for determining priority as between applicants in the allocation of its housing accommodation, and
- (b) governing cases where secure tenants wish to move (whether or not by way of exchange of dwelling-houses) to other dwelling-houses let under secure tenancies by that authority or another body.

(2) A landlord authority shall—

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- (a) maintain a set of the rules referred to in subsection (1) and of the rules which it has laid down governing the procedure to be followed in allocating its housing accommodation, and
  - (b) make them available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (3) A landlord authority which is a registered housing association shall, instead of complying with paragraph (b) of sub-section (2), send a set of the rules referred to in paragraph (a) of that subsection—
- (a) to the [<sup>F85</sup>Corporation], and
  - (b) to the council of any district or London borough in which there are dwelling-houses let or to be let by the association under secure tenancies;
- and a council to whom a set of rules is sent under this subsection shall make it available at its principal office for inspection at all reasonable hours, without charge, by members of the public.
- (4) A copy of the summary published under subsection (1) shall be given without charge, and a copy of the set of rules maintained under subsection (2) shall be given on payment of a reasonable fee, to any member of the public who asks for one.
- (5) At the request of a person who has applied to it for housing accommodation, a landlord authority shall make available to him, at all reasonable times and without charge, details of the particulars which he has given to the authority about himself and his family and which the authority has recorded as being relevant to his application for accommodation.

#### Textual Amendments

**F85** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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

**C60** [S. 106\(5\)](#) excluded by [Access to Personal Files Act 1987 \(c. 37, SIF 106:1\)](#), s. 1(3)(5)

#### [<sup>F86</sup>106A Consultation before disposal to private sector landlord.

- (1) The provisions of Schedule 3A have effect with respect to the duties of—
- (a) a local authority proposing to dispose of dwelling-houses subject to secure tenancies, and
  - (b) the Secretary of State in considering whether to give his consent to such a disposal,
- to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants.
- (2) In relation to a disposal to which that Schedule applies, the provisions of that Schedule apply in place of the provisions of section 105 (consultation on matters of housing management).]

#### Textual Amendments

**F86** [S. 106A](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 6(1)(3)

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

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### Miscellaneous

**F87** 107 .....

#### Textual Amendments

**F87** S. 107 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 168(4), 194(4), Sch. 12 Pt. II

### 108 Heating charges

- (1) This section applies to secure tenants of dwelling-houses to which a heating authority supply heat produced at a heating installation.
- (2) The Secretary of State may by regulations require heating authorities to adopt such methods for determining heating charges payable by such tenants as will secure that the proportion of heating costs borne by each of those tenants is no greater than is reasonable.
- (3) The Secretary of State may by regulations make provision for entitling such tenants, subject to and in accordance with the regulations, to require the heating authority—
  - (a) to give them, in such form as may be prescribed by the regulations, such information as to heating charges and heating costs as may be so prescribed, and
  - (b) where such information has been given, to afford them reasonable facilities for inspecting the accounts, receipts and other documents supporting the information and for taking copies or extracts from them.
- (4) Regulations under this section—
  - (a) May make different provision with respect to different cases or descriptions of case, including different provision for different areas;
  - (b) may make such procedural, incidental, supplementary and transitional provision as appears to the Secretary of State to be necessary or expedient, and may in particular provide for any question arising under the regulations to be referred to and determined by the county court; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
  - (a) “heating authority” means a housing authority [<sup>F88</sup>or housing action trust] who operate a heating installation and supply to premises heat produced at the installation;
  - (b) “heating installation” means a generating station or other installation for producing heat;
  - (c) references to heat produced at an installation include steam produced from, and air and water heated by, heat so produced;
  - (d) “heating charge” means an amount payable to a heating authority in respect of heat produced at a heating installation and supplied to premises, including in the case of heat supplied to premises let by the authority such an amount payable as part of the rent;

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- (e) “heating costs” means expenses incurred by a heating authority in operating a heating installation.

**Textual Amendments**

**F88** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(3)

**109 Provisions not applying to tenancies of co-operative housing associations.**

Sections 91 to 108 (assignment and subletting, repairs and improvements, variation of terms, provision of information and consultation, contributions to costs of transfers and heating charges) do not apply to a tenancy when the interest of the landlord belongs to a co-operative housing association.

*Supplementary provisions*

**[<sup>F89</sup>109A Acquisition of dwelling-house subject to statutory tenancy.**

Where an authority or body within section 80 (the landlord condition for secure tenancies) becomes the landlord of a dwelling-house subject to a statutory tenancy, the tenancy shall be treated for all purposes as if it were a contractual tenancy on the same terms, and the provisions of this Part apply accordingly.]

**Textual Amendments**

**F89** S. 109A and heading inserted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(1)(b), Sch. 5 Pt. I para. 2

**110 Jurisdiction of county court.**

- (1) A county court has jurisdiction to determine questions arising under this Part and to entertain proceedings brought under this Part and claims, for whatever amount, in connection with a secure tenancy.
- (2) That jurisdiction includes jurisdiction to entertain proceedings on the following questions—
  - (a) whether a consent required by section 92 (assignment by way of exchange) was withheld otherwise than on one or more of the grounds set out in Schedule 3,
  - (b) whether a consent required by section 93(1)(b) or 97(1) (landlord’s consent to subletting of part of dwelling-house or to carrying out of improvements) was withheld or unreasonably withheld, or
  - (c) whether a statement supplied in pursuance of section 104(2)(b) (written statement of certain terms of tenancy) is accurate,
 notwithstanding that no other relief is sought than a declaration.
- [<sup>F90</sup>(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.]

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#### Textual Amendments

**F90** S. 110(3) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3)(4), 125(7), **Sch. 20**

### 111 County court rules and directions.

- (1) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to—
  - (a) section 85 (extended discretion of court in certain proceedings for possession), and
  - (b) section 110 (jurisdiction of county court to determine questions arising under this Part).
- (2) The rules and directions may provide—
  - (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under the provisions mentioned in subsection (1), and
  - (b) for the conduct of proceedings in private.
- (3) The power to make rules is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

VALID FROM 12/02/1997

#### [<sup>F91</sup> 111A Introductory tenancies

Sections 102(1), (2) and (3)(a), 103 and 108 apply in relation to introductory tenancies as they apply in relation to secure tenancies.]

#### Textual Amendments

**F91** S. 111A inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 3(i)**

### 112 Meaning of “dwelling-house”.

- (1) For the purposes of this Part a dwelling-house may be a house or a part of a house.
- (2) Land let together with a dwelling-house shall be treated for the purposes of this Part as part of the dwelling-house unless the land is agricultural land (as defined in section 26(3)(a) of the <sup>M35</sup>General Rate Act 1967) exceeding two acres.

#### Marginal Citations

**M35** 1967 c. 9.

### 113 Members of a person’s family.

- (1) A person is a member of another’s family within the meaning of this Part if—

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- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person's parent, grandparent, child, grand-child, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purpose of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

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

- C61** S. 113 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 28(5)**
- C62** S. 113 applied by [Protection from Eviction Act 1977 \(c.43, SIF 75:1\)](#), **s. 3A(5)** as inserted by [Housing Act 1988 \(c.50, SIF 61\)](#), **ss. 31, 42(2)(b)**
- C63** S. 113 applied by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 138(2)**  
 S. 113 applied (17.12.1996) by [1996 c. 53, s. 98\(1\)](#); [S.I. 1996/2842, art. 3](#)  
 S. 113 applied (11.9.1996 for specified purposes and 16.12.1997 otherwise) by [1996 c. 53, s. 140\(4\)](#);  
[S.I. 1996/2352, art. 2\(2\)](#); [S.I. 1997/2846, art. 2](#)

**114 Meaning of “landlord authority”.**

- (1) In this Part “landlord authority” means—
- a local housing authority,
  - a registered housing association other than a co-operative housing association,
  - a housing trust which is a charity,
  - a development corporation,
  - [<sup>F92</sup>a housing action trust]
  - an urban development corporation, or
  - the Development Board for Rural Wales,
- other than an authority in respect of which an exemption certificate has been issued.
- (2) The Secretary of State may, on an application duly made by the authority concerned, issue an exemption certificate to—
- a development corporation,
  - [<sup>F92</sup>a housing action trust]
  - an urban development corporation, or
  - the Development Board for Rural Wales,
- if he is satisfied that it has transferred, or otherwise disposed of, at least three-quarters of the dwellings which have at any time before the making of the application been vested in it.
- (3) The application shall be in such form and shall be accompanied by such information as the Secretary of State may, either generally or in relation to a particular case, direct.



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### Textual Amendments

**F92** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(4)

## 115 Meaning of “long tenancy”.

(1) The following are long tenancies for the purposes of this Part, subject to subsection (2)

- (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;
- (b) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, other than a tenancy by sub-demise from one which is not a long tenancy;
- (c) any tenancy granted in pursuance of Part V (the right to buy).

(2) A tenancy granted so as to become terminable by notice after a death is not a long tenancy for the purposes of this Part, unless—

- (a) it is granted by a housing association which at the time of the grant is registered,
- (b) it is granted at a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, and
- (c) at the time it is granted it complies with the requirements of the regulations then in force under section 140(4)(b) of the <sup>M36</sup>Housing Act 1980 [<sup>F93</sup>or paragraph 4(2)(b) of schedule 4A to the Leasehold Reform Act 1967] (conditions for exclusion of shared ownership leases from Part I of the <sup>M37</sup>Leasehold Reform Act 1967) or, in the case of a tenancy granted before any such regulations were brought into force, with the first such regulations to be in force.

### Textual Amendments

**F93** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 40**

### Marginal Citations

**M36** 1980 c. 51

**M37** 1967 c. 88.

VALID FROM 04/02/1997

### [<sup>F94</sup>115A Meaning of “introductory tenancy”.

In this Part “introductory tenancy” has the same meaning as in Chapter I of Part V of the Housing Act 1996.]

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### Textual Amendments

**F94** S. 115A inserted (4.2.1997) by 1996 c. 52, s. 141(1), **Sch. 14 para. 3**; S.I. 1997/66, **art. 2** (subject to savings in **Sch.**)

## 116 Minor definitions.

In this Part—

“common parts”, in relation to a dwelling-house let under a tenancy, means any part of a building comprising the dwelling-house and any other premises which the tenant is entitled under the terms of the tenancy to use in common with the occupiers of other dwelling-houses let by the landlord;

“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;

“rental period” means a period in respect of which a payment of rent falls to be made;

“term”, in relation to a secure tenancy, includes a condition of the tenancy.

## 117 Index of defined expressions: Part IV

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression in the same section or paragraph):—

[ <sup>F95</sup> assured tenancy]	[ <sup>F95</sup> section 622]
cemetery	section 622
charity	section 622
common parts (in relation to a dwelling-house let under a tenancy)	section 116
[ <sup>F96</sup> consent (in Schedule 3A)]	[ <sup>F96</sup> paragraph 2(3) of that Schedule]
co-operative housing association	section 5(2)
[ <sup>F97</sup> the Corporation]	[ <sup>F97</sup> section 6A]
development corporation	section 4(c)
dwelling-house	section 112
family (member of)	section 113
housing association	section 5(1)
housing authority	section 4(a)
housing purposes	section 116
housing trust	section 6
improvement	section 97(2)
[ <sup>F98</sup> landlord (in Part V of Schedule 2)]	[ <sup>F98</sup> paragraph 5 of that Part]

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landlord authority	section 114
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy	section 115
[ <sup>F96</sup> management agreement and manager]	[ <sup>F96</sup> sections 27(2)and 27B(4)]
new town corporation	section 4(b)
qualified to succeed (on the death of a secure tenant)	section 87
registered and unregistered (in relation to a housing association)	section 5(4)
rental period	section 116
secure tenancy	section 79
term (in relation to a secure tenancy)	section 116
urban development corporation	section 4(d)
variation (of the terms of a secure tenancy)	section 102(2)

#### Textual Amendments

- F95** Entry inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 163(4)**
- F96** Words in [s. 117](#) inserted (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 24(2), 57(2), **Sch. 5 Pt. II para. 27**
- F97** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 109**
- F98** Words in [s. 117](#) inserted (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 24(2), 57(2), **Sch. 5 Pt. II para. 27**

## PART V

### THE RIGHT TO BUY

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

- C64** [Pt. V](#) (ss. 118–188) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**
- C65** [Pt. V](#) (ss. 118–188) modified by [S.I. 1986/2092](#), arts. 3, 6, **Sch. 1**; [S.I. 1987/1732](#), **arts. 3(1)**, 4(1); [S.I. 1989/368](#), art. 2, **Sch. 1**; [S.I.1990/179](#), art. 2, **Sch. 1**
- C66** [Pt. V](#) (ss. 118–188) applied (with modifications) (11.10.1993) by [S.I. 1993/2240](#), art. 3, **Sch. 1**  
[Pt. V](#) (ss. 118–188) modified (11.10.1993) by [S.I. 1993/2241](#), regs.2, 3, **Schs. 1-4**.  
[Pt. V](#) (ss. 118–188) modified (1.4.1995) by [S.I. 1995/401](#), art. 18, **Sch. para. 8(c)**  
[Pt. V](#) (ss. 118–188): power to modify conferred (1.8.1996) by [1996 c. 52](#), **s. 17(2)(3)** (with s. 54(1)); [S.I. 1996/2048](#), **art. 2(1)**
- C67** [Pt. V](#) (ss. 118–188) applied (1.8.1996) by [1996 c. 52](#), **s. 17(2)(3)** (with s. 54(1)); [S.I. 1996/2048](#), **art. 2(1)**

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**C68 Pt. V** (ss. 118-188) restricted (4.2.1997) by **1996 c. 52, s. 130(4)**; S.I. 1997/66, **art. 2** (subject to savings in **Sch.**)

*The right to buy*

**118 The right to buy.**

- (1) A secure tenant has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house;
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.
- (2) Where a secure tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to buy belongs jointly to all of them or to such one or more of them as may be agreed between them; but such an agreement is not valid unless the person or at least one of the persons to whom the right to buy is to belong occupies the dwelling-house as his only or principal home.

**119 Qualifying period for right to buy.**

- (1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.
- (2) Where the secure tenancy is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

**120 Exceptions to the right to buy**

The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

**121 Circumstances in which the right to buy cannot be exercised.**

- (1) The right to buy cannot be exercised if the tenant is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.
- (2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—
  - (a) has a bankruptcy petition pending against him,
  - (b) .....
  - (c) is an undischarged bankrupt, or
  - (d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

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### Textual Amendments

**F99** S. 121(2)(b) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 10 Pt. III](#) and by [Insolvency Act 1986 \(c.45, SIF 66\)](#), s. 437, [Sch. 11](#), Pt. II para. 10(2)

VALID FROM 15/06/2005

### <sup>F100</sup>121A Order suspending right to buy because of anti-social behaviour

- (1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.
- (2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order (“the suspension period”).
- (3) The court must not make a suspension order unless it is satisfied—
  - (a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and
  - (b) that it is reasonable to make the order.
- (4) When deciding whether it is reasonable to make the order, the court must consider, in particular—
  - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and
  - (b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (5) Where a suspension order is made—
  - (a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and
  - (b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but
  - (c) the order does not affect the computation of any period in accordance with Schedule 4.
- (6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.
- (7) The court must not make such a further order unless it is satisfied—
  - (a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and
  - (b) that it is reasonable to make the further order.

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- (8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—
- (a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and
  - (b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
- (9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.]

#### Textual Amendments

**F100** S. 121A inserted (6.6.2005 for E. and 25.11.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), [ss. 192\(2\)](#), [270\(4\)\(5\)](#); [S.I. 2005/1451](#), [art. 2\(b\)](#); [S.I. 2005/3237](#), [art. 2\(g\)](#)

VALID FROM 18/11/2004

#### <sup>F101</sup> **Information to help tenants decide whether to exercise right to buy etc.**

- (1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.
- (2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.
- (3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—
  - (a) shall be such as the body concerned considers appropriate, but
  - (b) shall be in a form which the body considers best suited to explaining those matters in simple terms.
- (4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—
  - (a) is kept up to date so far as is reasonably practicable, and
  - (b) reflects any changes in the matters for the time being specified in an order under this section.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

**F101** Ss. 121AA, 121B inserted (18.11.2004 for specified purposes and 18.1.2005 otherwise) by [Housing Act 2004 \(c.34\)](#), **ss. 189(1), 270(2)(b)(3)(a)**

VALID FROM 18/11/2004

### [<sup>F102</sup>121B] Provision of information

- (1) This section sets out when the document prepared by a body under section 121AA is to be published or otherwise made available.
- (2) The body shall—
  - (a) publish the document (whether in its original or a revised form), and
  - (b) supply copies of it to the body's secure tenants,at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.
- (3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.
- (4) The copies must be made available for that purpose—
  - (a) at the body's principal offices, and
  - (b) at such other places as it considers appropriate,at reasonable hours.
- (5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).
- (6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2) (a).
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

### Textual Amendments

**F102** Ss. 121AA, 121B inserted (18.11.2004 for specified purposes and 18.1.2005 otherwise) by [Housing Act 2004 \(c. 34\)](#), **ss. 189(1), 270(2)(b)(3)(a)**

### *Claim to exercise right to buy*

#### **122 Tenant's notice claiming to exercise right to buy.**

- (1) A secure tenant claims to exercise the right to buy by written notice to that effect served on the landlord.

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- (2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.
- (3) The notice may be withdrawn at any time by notice in writing served on the landlord.

### **123 Claim to share right to buy with members of family.**

- (1) A secure tenant may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to buy with him.
- (2) He may validly do so in the case of any such member only if—
  - (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
  - (b) the landlord consents.
- (3) Where by such a notice any members of the tenant’s family are validly required to share the right to buy with the tenant, the right to buy belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Part as joint tenants.

### **124 Landlord’s notice admitting or denying right to buy.**

- (1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within the period specified in subsection (2) a written notice either—
  - (a) admitting his right, or
  - (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to buy.
- (2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or periods during which the landlord was the landlord on which the tenant’s notice under section 122 was served, and eight weeks in any other case.
- (3) A landlord’s notice under this section shall inform the tenant of any application for a determination under paragraph 11 of Schedule 5 (determination that right to buy not to be capable of exercise) and, in the case of a notice admitting the tenant’s right to buy, is without prejudice to any determination made on such an application.

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

**C69** S. 124 modified by S.I. 1990/178, **arts. 3, 5** (which S.I. was revoked (11.10.1993) by S.I. 1993/2241, **reg. 4**).

### **125 Landlord’s notice of purchase price and other matters.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established (whether by the landlord’s admission or otherwise), the landlord shall—
  - (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and



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- (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest).

serve on the tenant a notice complying with this section.

- (2) The notice shall describe the dwelling-house, shall state the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—

- (a) the value at the relevant time,
- (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
- (c) the discount to which the tenant is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).

- (3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.

- [<sup>F103</sup>(4) Where the notice states provisions which would enable the landlord to recover from the tenant—

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).]

- [<sup>F104</sup>(4A) The notice shall contain a description of any structural defect known to the landlord affecting the dwelling-house or the building in which it is situated or any other building over which the tenant will have rights under the conveyance or lease.]

- (5) The notice shall also inform the tenant of—

- (a) his right under section 128 to have the value of the dwelling-house at the relevant time determined or redetermined by the district valuer,
- (b) the right to a mortgage and the effect of sections 134 and 135 (procedure for claiming to exercise that right).
- (c) the effect of sections 140, 141(1), (2) and (4) and 142(1) and (2) (landlord's notices to complete, effect of failure to comply and right to defer completion), and
- (d) the effect of the provisions of this Part relating to the right to be granted a shared ownership lease;

and the notice shall be accompanied by a form for use by the tenant in claiming to exercise the right to a mortgage.

#### Textual Amendments

**F103** S. 125(4) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(1)(6)

**F104** S. 125(4A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. 1 para. 3](#)

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**[<sup>F105</sup>125A] Estimates and information about service charges.**

- (1) A landlord's notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—
  - (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and
  - (b) the aggregate of those estimated amounts,
 and shall contain a statement of the reference period adopted for the purpose of the estimates.
- (2) A landlord's notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain—
  - (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of—
    - paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant), and
    - section 450A and the regulations made under that section (right to a loan in respect of certain service charges).
- (3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—
  - (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of those estimated costs and contributions, and
  - (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the tenant.]

**Textual Amendments**

**F105** Ss. 125A–C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

**[<sup>F106</sup>125B] Estimates and information about improvement contributions.**

- (1) A landlord's notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—
  - (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.
- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
  - (a) the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and
  - (b) the aggregate amounts of those estimated costs and contributions.]

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#### Textual Amendments

**F106** Ss. 125A-C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

#### [<sup>F107</sup>125C] Reference period for purposes of ss. 125A and 125B.

- (1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—
  - (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
  - (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.
- (2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.]

#### Textual Amendments

**F107** Ss. 125A-C inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(2)(6)

VALID FROM 11/10/1993

#### [<sup>F108</sup>125D] Tenant's notice of intention.

- (1) Where a notice under section 125 has been served on a secure tenant, he shall within the period specified in subsection (2) either—
  - (a) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim, or
  - (b) serve a notice under section 144 claiming to exercise the right to acquire on rent to mortgage terms.
- (2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—
  - (a) the service of the notice under section 125, and
  - (b) where the tenant exercises his right to have the value of the dwelling-house determined or re-determined by the district valuer, the service of the notice under section 128(5) stating the effect of the determination or re-determination.]

#### Textual Amendments

**F108** Ss. 125D, 125E inserted (11.10.1993) by [1993 c. 28, s. 105\(1\)](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

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VALID FROM 11/10/1993

**[<sup>F109</sup>125E Landlord's notice in default.**

- (1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the tenant a written notice—
  - (a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and
  - (b) informing him of the effect of this subsection and subsection (4).
- (2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).
- (3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.
- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).]

**Textual Amendments**

**F109** Ss. 125D, 125E inserted (11.10.1993) by 1993 c. 28, s. 105(1); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch.1 para. 4(1)).

*Purchase price*

**126 Purchase price.**

- (1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Part is—
  - (a) the amount which under section 127 is to be taken as its value at the relevant time, less
  - (b) the discount to which the purchaser is entitled under this Part.
- (2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

**127 Value of dwelling-house.**

- (1) The value of a dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—
  - (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3), . . . <sup>F110</sup>

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- (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the dwelling-house in good internal repair <sup>F111</sup>, and
  - (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.]
- (2) For a conveyance the assumptions are—
- (a) that the vendor was selling for an estate in fee simple with vacant possession,
  - (b) that neither the tenant nor a member of his family residing with him wanted to buy, and
  - (c) that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—
- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6 (but subject to sub-paragraph (3) of that paragraph).
  - (b) that neither the tenant nor a member of his family residing with him wanted to take the lease,
  - (c) that the ground rent would not exceed £10 per annum, and
  - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
- (a) the secure tenant,
  - (b) any person who under the same tenancy was a secure tenant before him, and
  - (c) any member of his family who immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the secure tenant's tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

#### Textual Amendments

**F110** Word repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), Sch. 5 Pt. II para. 28, [Sch. 12 Pt. I](#)

**F111** “, and” and s. 127(1)(c) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(3)(6)

## 128 Determination of value by district valuer.

- (1) Any question arising under this Part as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.
- (2) A tenant may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.

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- (3) If such proceedings are begun after a previous determination under this section—
- (a) the tenant may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the dwelling-house at the relevant time to be re-determined, and
  - (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;
- and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the tenant a notice stating that the requirement is being or has been made.
- (4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the tenant within four weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).
- (5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the tenant a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).
- (6) A notice under subsection (5) shall inform the tenant of the right to a mortgage and of the effect of sections 134 and 135 (procedure for claiming to exercise that right) and shall be accompanied by a form for use by the tenant in claiming to exercise that right.

VALID FROM 22/09/2008

**[<sup>F112</sup>128A] Determination of value: review notices**

- (1) Subsection (2) applies if the value of a dwelling-house has been determined or re-determined under section 128 (“the section 128 determination”).
- (2) The district valuer may—
  - (a) on the valuer's own initiative; or
  - (b) at the request of the landlord or the tenant of the dwelling-house;
 serve on the landlord and the tenant a notice of intention to review the section 128 determination giving reasons for the intention (“a review notice”).
- (3) A request under subsection (2)(b) must—
  - (a) be in writing;
  - (b) state the reason it is being made; and
  - (c) confirm that the landlord has not made to the tenant a grant of the kind mentioned in section 138(1) in respect of the claim by the tenant to exercise the right to buy in respect of the dwelling-house.
- (4) The landlord or the tenant may not make a request under subsection (2)(b) after the end of the period of 28 days beginning with the section 128(5) service date.
- (5) The district valuer must, before the end of the period of 14 days beginning with the day on which such a request is made, serve on the landlord and the tenant—
  - (a) a review notice; or

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- (b) a notice stating—
  - (i) that the request was made;
  - (ii) that the district valuer has decided not to comply with it; and
  - (iii) the reasons for the decision.
- (6) A review notice may not be served after the end of the period of 42 days beginning with the section 128(5) service date.
- (7) A review notice may not be served in relation to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent the service of a review notice in relation to the re-determination).
- (8) A review notice may not be served if the landlord has made a grant of the kind mentioned in subsection (3)(c).
- (9) A person who makes a request under subsection (2)(b) must inform the district valuer if a grant of the kind mentioned in subsection (3)(c) is made during the period of 14 days mentioned in subsection (5).
- (10) Subsection (11) applies if the district valuer is considering whether to serve a review notice on the valuer's own initiative.
- (11) The landlord or the tenant must, if requested by the district valuer, inform the valuer whether a grant of the kind mentioned in subsection (3)(c) has been made.
- (12) In this section and section 128B—
  - “a review notice” has the meaning given by subsection (2);
  - “the section 128 determination” has the meaning given by subsection (1);
  - “the section 128(5) service date” means the day on which the landlord serves a notice on the tenant under section 128(5) in relation to the section 128 determination.

#### Textual Amendments

**F112** Ss. 128A, 128B inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 306\(2\), 325\(2\)](#) (with s. 306(12))

VALID FROM 22/09/2008

#### **128B Review of determination of value**

- (1) The district valuer must review the section 128 determination as soon as reasonably practicable after serving a review notice.
- (2) Subsection (3) applies if, following the review, the district valuer decides that neither of the withdrawal conditions is met.
- (3) The district valuer must, as soon as reasonably practicable, serve on the landlord and the tenant a notice stating—
  - (a) the decision;
  - (b) the reasons for it; and

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- (c) that no further determination or (as the case may be) re-determination is to be made under this section.
- (4) Subsection (5) applies if, following the review, the district valuer decides that either withdrawal condition is met or both are met.
- (5) The district valuer must—
- (a) as soon as reasonably practicable, withdraw the section 128 determination by serving a further determination notice on the landlord and the tenant; and
  - (b) make a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time.
- (6) Before making such a determination or re-determination, the district valuer must consider any representation made to the valuer by the landlord or the tenant before the end of the period of 14 days beginning with the day on which the further determination notice was served.
- (7) As soon as practicable after such a determination or re-determination has been made, the landlord must serve on the tenant a determination effect notice.
- (8) A determination effect notice is a notice stating—
- (a) the effect of the further determination or (as the case may be) re-determination; and
  - (b) the matters mentioned in section 125(2) and (3).
- (9) For the purposes of this section, the withdrawal conditions are—
- (a) that a significant error was made in the section 128 determination; or
  - (b) that the district valuer did not comply with section 128(4) in relation to the section 128 determination.
- (10) This section does not apply to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent this section applying to the re-determination).
- (11) In this section—
- “a further determination notice” is a notice stating—
- (a) that the section 128 determination is withdrawn;
  - (b) the reasons for the withdrawal; and
  - (c) that a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time will be made;
- “significant error”, in relation to the section 128 determination, means an error of fact, or a number of such errors, made in the section 128 determination as a result of which the value of the dwelling-house determined or (as the case may be) re-determined was at least 5% more or less than it would otherwise have been.]

#### **Textual Amendments**

**F112** Ss. 128A, 128B inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **306(2)**, 325(2) (with s. 306(12))



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## 129 Discount.

[<sup>F113</sup>(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

(2) The discount is, subject to any order under subsection (2A)—

- (a) in the case of a house, 32 per cent. plus one per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 60 per cent.;
- (b) in the case of a flat, 44 per cent. plus two per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 70 per cent.

(2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

- (a) the minimum percentage discount,
- (b) the percentage increase for each complete year of the qualifying period after the first two, or
- (c) the maximum percentage discount,

shall be such percentage, higher than that specified in subsection (2), as may be specified in the order.

(2B) An order—

- (a) may make different provision with respect to different cases or descriptions of case,
- (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
- (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

(2) The discount shall not exceed 60 per cent.

(3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

### Textual Amendments

**F113** S. 129(1)–(2B) substituted for s. 129(1)(2) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 2(1)(2)

## 130 Reduction of discount where previous discount given.

(1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.

(2) A “previous discount” means a discount given before the relevant time—

- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 [<sup>F114</sup>or 7A] of Schedule 4

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- (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
- [<sup>F115</sup>(aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or]
- (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
- to the person or one of the persons exercising the right to buy, or
  - to the spouse of that person or one of those persons (if they are living together at the relevant time), or
  - to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);
- and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.
- (4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—
- by the receipt of a payment determined by reference to the discount, or
  - by a reduction so determined of any consideration given by that person (or a successor in title of his), or
  - in any other way,
- then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.
- (5) An order under this section—
- may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

#### Textual Amendments

**F114** Words in s. 130(2)(a) inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 29](#); S.I. 1992/1753, [art.2\(2\)](#) (with restriction in [Sch. para. 2](#))

**F115** S. 130(2)(aa) inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 29](#); S.I. 1992/1753, [art.2\(2\)](#) (with restriction in [Sch. para. 2](#))

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

**C70** S. 130 modified by [Housing Associations Act 1985 \(c. 69, SIF 61\)](#), s. 45(4); [Housing Act 1988 \(c.50, SIF 61\)](#), s. 58(3)(4)

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

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### 131 Limits on amount of discount

- (1) Except where the Secretary of State so determines, the discount shall not reduce the price below the amount which, in accordance with a determination made by him, is to be taken as representing so much of the costs incurred in respect of the dwelling-house as, in accordance with the determination—
- [<sup>F116</sup>(a) is to be treated as incurred at or after the beginning of that period of account of the landlord in which falls the date which is eight years, or such other period of time as may be specified in an order made by the Secretary of State, earlier than the relevant time, and]
- (b) is to be treated as relevant for the purposes of this sub-section;
- and if the price before discount is below that amount, there shall be no discount.
- [<sup>F117</sup>(1A) In subsection (1)(a) above “period of account”, in relation to any costs, means the period for which the landlord made up those of its accounts in which account is taken of those costs.]
- (2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.
- (3) An order or determination under this section may make different provision for different cases or descriptions of case, including different provision for different areas.
- (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F116** S. 131(1)(a) substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 122\(2\)\(4\)](#)

**F117** S. 131(1A) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 122\(3\)\(4\)](#)

### *The right to a mortgage*

### 132 The right to a mortgage.

- (1) A secure tenant who has the right to buy has the right, subject to the following provisions of this Part—
- (a) to leave the whole or part of the aggregate amount mentioned in section 133(1) outstanding on the security of a first mortgage of the dwelling-house, or
- (b) if the landlord is a housing association, to have the whole or part of that amount advanced to him on that security by the [<sup>F118</sup>Corporation];
- and in this Act that right is referred to as “the right to a mortgage.”
- (2) Where the right to buy belongs jointly to two or more persons, the right to a mortgage also belongs to them jointly.

#### Textual Amendments

**F118** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(2\), Sch. 17 Pt. II para. 106](#)

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### 133 The amount to be secured.

- (1) The amount which a secure tenant exercising the right to a mortgage is entitled to leave outstanding, or have advanced to him, on the security of the dwelling-house is, subject to the limit imposed by this section, the aggregate of—
  - (a) the purchase price,
  - (b) so much of the costs incurred by the landlord or the [<sup>F119</sup>Corporation] as is chargeable to the tenant under section 178(2) (costs), and
  - (c) any costs incurred by the tenant and defrayed on his behalf by the landlord or the [<sup>F119</sup>Corporation].
- (2) The limit is that the amount which the tenant is entitled to leave outstanding or have advanced to him on the security of the dwelling-house may not exceed—
  - (a) where the right to a mortgage belongs to one person, the amount to be taken into account, in accordance with regulations under this section, as his available annual income multiplied by such factor as, under the regulations, is appropriate to it;
  - (b) where the right to a mortgage belongs to more than one person, the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.
- (3) The Secretary of State may by regulations make provision for calculating the amount which is to be taken into account under this section as a person's available annual income and for specifying a factor appropriate to it; and the regulations—
  - (a) may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income, and
  - (b) may specify different amounts and different factors for different circumstances.
- (4) Where the amount which a secure tenant is entitled to leave outstanding on the security of the dwelling-house is reduced by the limit imposed by this section, the landlord may, if it thinks fit and the tenant agrees, treat him as entitled to leave outstanding on that security such amount exceeding the limit, but not exceeding the aggregate mentioned in subsection (1), as the landlord may determine.
- (5) References in this Part to a secure tenant being entitled, or treated as entitled, to a "full mortgage" are to his being entitled, or treated as entitled, to leave outstanding or have advanced to him on the security of the dwelling-house an amount equal to the aggregate mentioned in subsection (1).
- (6) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F119** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

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### 134 Tenant's notice claiming to exercise right to a mortgage.

- (1) A secure tenant cannot exercise his right to a mortgage unless he claims to exercise it by notice in writing served on the landlord, or if the landlord is a housing association, on the [F120Corporation].
- (2) The notice must be served within the period of three months beginning with the service on the tenant of—
  - (a) where he exercises his right under section 128 (determination of value by district valuer), the notice under subsection (5) of that section (further notice by landlord after determination), or
  - (b) where he does not exercise that right, the notice under section 125 (landlord's notice of purchase price and other matters),or within that period as extended under the following provisions.
- (3) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the [F120Corporation] shall by notice in writing served on the tenant extend (or further extend) the period within which the tenant's notice claiming to exercise his right to a mortgage must be served.
- (4) If in such a case the landlord or [F120Corporation] fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.

#### Textual Amendments

**F120** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

### 135 Landlord's notice of amount and terms of mortgage.

- (1) As soon as practicable after the service on it of a notice under section 134, the landlord or [F121Corporation] shall serve on the tenant a notice in writing stating—
  - (a) the amount which, in the opinion of the landlord or [F121Corporation], the tenant is entitled to leave outstanding or have advanced on the security of the dwelling-house,
  - (b) how that amount has been arrived at, and
  - (c) the provisions which, in the opinion of the landlord or [F121Corporation], should be contained in the deed by which the mortgage is to be effected.
- (2) The notice shall be accompanied by a form for use by the tenant in claiming, in accordance with section 142(1), to be entitled to defer completion and shall also inform the tenant of the effect of subsection (4) of that section (right to serve further notice claiming mortgage).
- (3) Where, in the opinion of the landlord or [F121Corporation], the tenant is not entitled to a full mortgage, the notice shall also inform the tenant of the effect of the provisions of this Part relating to the right to be granted a shared ownership lease and shall be accompanied by a form for use by the tenant in claiming to exercise that right in accordance with section 144(1).
- (4) The [F121Corporation] shall send to the landlord a copy of any notice served by it on the tenant under this section.

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#### Textual Amendments

**F121** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

*Change of tenant or landlord after service of notice claiming right to buy*

### **136 Change of secure tenant after notice claiming right to buy.**

- (1) Where, after a secure tenant (“the former tenant”) has given a notice claiming the right to buy, another person (“the new tenant”)—
  - (a) becomes the secure tenant under the same secure tenancy, otherwise than on an assignment made by virtue of section 92 (assignments by way of exchange), or
  - (b) becomes the secure tenant under a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of the secure tenancy,

the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.
- (2) If a notice under section 125 (landlord’s notice of purchase price and other matters has been served on the former tenant, the landlord shall serve on the new tenant a further form for his use in claiming to exercise the right to a mortgage.
- (3) The new tenant may then serve a notice under section 134 (tenant’s notice claiming to exercise right to a mortgage) within the period of three months beginning with the service on him of that form or within that period as extended under the following provisions.
- (4) Where there are reasonable grounds for doing so, the landlord or, as the case may be, the [F122Corporation] shall by notice in writing served on the new tenant extend (or further extend) the period within which his notice claiming to exercise the right to a mortgage may be served.
- (5) If in such a case the landlord or [F122Corporation] fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.
- (6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new tenant.
- (7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the secure tenant.

#### Textual Amendments

**F122** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

### **137 Change of landlord after notice claiming right to buy or right to a mortgage.**

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[<sup>F123</sup>(1) Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given a notice claiming to exercise the right to buy or the right to a mortgage, all parties shall [<sup>F124</sup>, subject to subsection (2),] be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.]

[<sup>F125</sup>(2) If the circumstances after the disposal differ in any material respect, as for example where—

- (a) the interest of the donee in the dwelling-house after the disposal differs from that of the donor before the disposal, or
- (b) the right to a mortgage becomes exercisable against the [<sup>F126</sup>Corporation] rather than the landlord, or vice versa, or
- (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.]

#### Textual Amendments

**F123** S. 137, existing provision renumbered as s. 137(1) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 4\(1\)](#)

**F124** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s.24(1), [Sch. 5 Pt. I para. 4\(2\)](#)

**F125** S. 137(2) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 4\(3\)](#)

**F126** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

### *Completion of purchase in pursuance of right to buy*

#### **138 Duty of landlord to convey freehold or grant lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall make to the tenant—
  - (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
  - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,

in accordance with the following provisions of this Part.

- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.
- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

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VALID FROM 18/01/2005

**[<sup>F127</sup>138A] Effect of initial demolition notice served before completion**

- (1) This section applies where—
  - (a) an initial demolition notice is served on a secure tenant under Schedule 5A, and
  - (b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.
- (2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

**Textual Amendments**

**F127** S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

VALID FROM 18/01/2005

**138B Effect of final demolition notice served before completion**

- (1) This section applies where—
  - (a) a secure tenant has claimed to exercise the right to buy, but
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.
- (2) In such a case—
  - (a) the tenant's claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and
  - (b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant's claim, at any time after the notice comes into force.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

**Textual Amendments**

**F127** S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)



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VALID FROM 18/01/2005

### 138C Compensation where demolition notice served

- (1) This section applies where—
  - (a) a secure tenant has claimed to exercise the right to buy,
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and
  - (c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).
- (2) If, within the period of three months beginning with the date when the notice comes into force (“the operative date”), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.
- (3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.
- (4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question.]

#### Textual Amendments

F127 S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), [ss.183\(2\)\(4\)](#), 270(3)(a)

### 139 Terms and effect of conveyance or grant and mortgage.

- (1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to buy; and if there is then a subtenancy section 139 of the <sup>M38</sup>Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.
- (3) The deed by which a mortgage is effected in pursuance of the right to a mortgage shall, unless otherwise agreed between the parties, conform with the provisions of Schedule 7.

#### Marginal Citations

M38 1925 c. 20.

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#### 140 Landlord’s first notice to complete.

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,
 and informing the tenant of the effect of this section and of section 141(1), (2) and (4) landlord’s second notice to complete).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served earlier than whichever of the following is applicable—
  - (a) if the tenant has not claimed to exercise the right to a mortgage, nine months after the end of the period within which a notice claiming it could have been served by him;
  - (b) if he has claimed the right to a mortgage, but is not entitled to defer completion, nine months after the service of the notice under section 135 (landlord’s notice of terms and amount of mortgage);
  - (c) if he is entitled to defer completion, [<sup>F128</sup>three years] after the service of his notice under section 122 claiming to exercise the right to buy or, if later, nine months after the service of the notice under section 135 (landlord’s notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
  - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section “relevant matters” means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

#### Textual Amendments

**F128** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(1\)\(3\)\(4\)](#)

#### 141 Landlord’s second notice to complete.

- (1) If the tenant does not comply with a notice under section 140 (landlord’s first notice to complete), the landlord may serve on him a further written notice—
  - (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.

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- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 138(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

#### **142 When tenant is entitled to defer completion,**

- (1) A tenant is entitled to defer completion if—
  - (a) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage,
  - (b) he has, within the period mentioned below, served on the landlord a notice claiming to be entitled to defer completion, and
  - (c) he has, within the same period, deposited the sum of [<sup>F129</sup>£150] with the landlord.
- (2) The period within which the notice must be served and the sum of [<sup>F129</sup>£150] deposited is the period of three months beginning with the service on the tenant of the notice under section 135 (notice of terms and amount of mortgage), or that period as extended under subsection (3).
- (3) If there are reasonable grounds for doing so the landlord shall extend (or further extend) that period<sup>X</sup>; and if it fails to do so the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) A tenant who is entitled to defer completion may at any time before the service on him of a notice under section 140 (landlords' first notice to complete), serve a further notice under section 134(1) (notice claiming to exercise right to a mortgage); and if he does, section 135(1) and (4) (notice of terms and amount of mortgage) apply accordingly.
- (5) If in pursuance of a notice under this section the tenant deposits the sum of [<sup>F129</sup>£150] with the landlord, then—
  - (a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and
  - (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord's second notice to complete), the sum shall be returned to him.

#### **Textual Amendments**

**F129** “£150” substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(1\), Sch. 5 Pt. I para. 5\(2\)](#)  
**(3)(4)**

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

**C71** S. 142(5) extended by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 5(4)**

VALID FROM 18/11/2004

**[<sup>F130</sup>142A] Termination of the right to acquire on rent to mortgage terms**

- (1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.
- (2) In this section “the termination date” means the date falling 8 months after the date of the passing of the Housing Act 2004.]

**Textual Amendments**

**F130** S. 142A inserted (18.11.2004) by [Housing Act 2004 \(c. 34\)](#), s. 190(1)

*The right to a shared ownership lease*

**143 Right to be granted a shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to buy and—
  - (a) his right has been established and his notice claiming to exercise it remains in force,
  - (b) he has claimed the right to a mortgage but is not entitled, or treated as entitled, to a full mortgage, and
  - (c) he is entitled to defer completion,
 he also has the right to be granted a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.
- (2) Where the right to buy belongs to two or more persons jointly, the right to be granted a shared ownership lease also belongs to them jointly.

VALID FROM 02/09/1993

**[<sup>F131</sup>143A] Right excluded by entitlement to housing benefit.**

- (1) The right to acquire on rent to mortgage terms cannot be exercised if—
  - (a) it has been determined that the tenant is or was entitled to housing benefit in respect of any part of the relevant period, or
  - (b) a claim for housing benefit in respect of any part of that period has been made (or is treated as having been made) by or on behalf of the tenant and has not been determined or withdrawn.
- (2) In this section “the relevant period” means the period—
  - (a) beginning twelve months before the day on which the tenant claims to exercise the right to acquire on rent to mortgage terms, and

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- (b) ending with the day on which the conveyance or grant is executed in pursuance of that right.]

#### Textual Amendments

**F131** Ss. 143, 143A, 143B substituted for s. 143 (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, s. 108; S.I. 1993/2134, arts. 2, 3, 4(b) (with saving in Sch. 1 para. 4(1)).

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

**C72** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

VALID FROM 02/09/1993

#### <sup>F132</sup> 143B Right excluded if minimum initial payment exceeds maximum initial payment.

- (1) The right to acquire on rent to mortgage terms cannot be exercised if the minimum initial payment in respect of the dwelling-house exceeds the maximum initial payment in respect of it.
- (2) The maximum initial payment in respect of a dwelling-house is 80 per cent. of the price which would be payable if the tenant were exercising the right to buy.
- (3) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time did not exceed the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = R \times M$$

where—

P = the minimum initial payment;

R = the amount of the weekly rent at the relevant time;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (4) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time exceeded the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = Q + (E \times M)$$

where—

P = the minimum initial payment;

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Q = the qualifying maximum for the year of assessment which included the relevant time;

E = the amount by which the weekly rent at that time exceeded the relevant amount;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (5) The minimum initial payment in respect of a dwelling-house which is a flat is 80 per cent. of the amount which would be the minimum initial payment in respect of the dwelling-house if it were a house.
- (6) The relevant amount and multipliers for the time being declared for the purposes of this section shall be such that, in the case of a dwelling-house which is a house, they will produce a minimum initial payment equal to the capital sum which, in the opinion of the Secretary of State, could be raised on a 25 year repayment mortgage in the case of which the net amount of the monthly mortgage payments was equal to the rent at the relevant time calculated on a monthly basis.
- (7) For the purposes of subsection (6) the Secretary of State shall assume—
- (a) that the interest rate applicable throughout the 25 year term were the standard national rate for the time being declared by the Secretary of State under paragraph 2 of Schedule 16 (local authority mortgage interest rates); and
  - (b) that the monthly mortgage payments represented payments of capital and interest only.

- (8) In this section—

“net amount”, in relation to monthly mortgage payments, means the amount of such payments after deduction of tax under section 369 of the <sup>M39</sup>Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax);

“qualifying maximum” means the qualifying maximum defined in section 367(5) of that Act (limit on relief for interest on certain loans);

“relevant amount” means the amount which at the relevant time was for the time being declared by the Secretary of State for the purposes of this section;

“relevant time” means the time of the service of the landlord’s notice under section 146 (landlord’s notice admitting or denying right);

“rent” means rent payable under the secure tenancy, but excluding any element which is expressed to be payable for services, repairs, maintenance or insurance or the landlord’s costs of management.]

#### Textual Amendments

**F132** Ss. 143, 143A, 143B substituted for s. 143 (2.9.1993 so far as confers on Secretary of State a power to make orders, regulations, or declarations, 11.10.1993 in so far as it is not in force) by 1993 c. 28, s. 108; S.I. 1993/2134, arts. 2, 3, 4(b) (with saving in Sch. 1 para. 4(1)).

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

**C73** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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#### Marginal Citations

M39 1988 c. 1.

#### 144 Tenant's notice claiming to exercise right to shared ownership lease.

- (1) A secure tenant claims to exercise the right to be granted a shared ownership lease by written notice to that effect served on the landlord stating the initial share which he proposes to acquire.
- (2) The notice may be withdrawn or varied at any time by notice in writing served on the landlord.
- (3) On the service of a notice under this section, any notice served by the landlord under section 140 or 141 (landlord's notices to complete purchase in pursuance of right to buy) shall be deemed to have been withdrawn; and no such notice may be served by the landlord whilst a notice under this section remains in force.
- (4) If on the service by the tenant of a further notice under section 134 (claim to exercise right to a mortgage) he becomes entitled, or treated as entitled, to a full mortgage, he ceases to be entitled to exercise the right to be granted a shared ownership lease; and any notice of his under this section shall be deemed to have been withdrawn.
- (5) Where a notice under this section is withdrawn, or deemed to have been withdrawn, the tenant may complete the transaction in accordance with the provisions of this Part relating to the right to buy.

#### 145 Tenant's initial share.

- (1) The tenant's initial share in the dwelling-house shall be a multiple of the prescribed percentage and shall not be less than the minimum initial share.
- (2) The prescribed percentage is 12.5 per cent. or such other percentage as the Secretary of State may by order prescribe.
- (3) The minimum initial share is 50 per cent. or such other percentage as the Secretary of State may by order prescribe.
- (4) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### 146 Landlord's notice admitting or denying right.

—Where a notice under section 144 (notice claiming to exercise right to shared ownership lease) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within four weeks a written notice either—

- (a) admitting the tenant's right, or

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- (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to be granted a shared ownership lease.

VALID FROM 11/10/1993

**<sup>F133</sup>146A Tenant’s notice of intention.**

- (1) Where a notice under section 146 has been served on a secure tenant, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either—
- (a) that he intends to pursue his claim to exercise the right to acquire on rent to mortgage terms and the amount of the initial payment which he proposes to make, or
  - (b) that he withdraws that claim and intends to pursue his claim to exercise the right to buy, or
  - (c) that he withdraws both of those claims.
- (2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with the service of the notice under section 146.
- (3) The amount stated in a notice under subsection (1)(a)—
- (a) shall not be less than the minimum initial payment and not more than the maximum initial payment, and
  - (b) may be varied at any time by notice in writing served on the landlord.]

**Textual Amendments**

**F133** Ss. 146A, 146B inserted (11.10.1993) by 1993 c. 28, s. 111; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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

**C74** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

VALID FROM 11/10/1993

**<sup>F134</sup>146B Landlord’s notice in default.**

- (1) The landlord may, at any time after the end of the period specified in section 146A(2), serve on the tenant a written notice—
- (a) requiring him, if he has failed to serve the notice required by section 146A(1), to serve that notice within 28 days, and
  - (b) informing him of the effect of this subsection and subsection (4).
- (2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).



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(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to acquire on rent to mortgage terms shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).

#### Textual Amendments

**F134** Ss. 146A, 146B inserted (11.10.1993) by 1993 c. 28, s. 111; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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

**C75** Ss. 143-151 amended (11.10.1993) by 1993 c. 28, s. 107(c); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### 147 Landlord's notice of initial contribution, etc.

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established (whether by the landlord's admission or otherwise), the landlord shall, within eight weeks, serve on the tenant a written notice complying with this section.
- (2) The notice shall state—
  - (a) the amount which, in the opinion of the landlord, should be the amount of the consideration for the grant of the lease on the assumption that the tenant's initial share is that stated in the notice under section 144; and
  - (b) the effective discount on an acquisition of that share for that consideration, determined in each case, in accordance with section 148.
- (3) The notice shall state the provisions which, in the opinion of the landlord, should be included in the lease.
- (4) Where the landlord is not a housing association, the notice shall state any variation in the provisions which, in the opinion of the landlord, should be contained in the deed by which the mortgage is to be effected.
- (5) Where the landlord is a housing association, the landlord shall send a copy of the notice to the [<sup>F135</sup>Corporation], and the [<sup>F135</sup>Corporation] shall, as soon as practicable after receiving the notice, serve on the tenant a written notice stating any variation in the provisions which, in the opinion of the [<sup>F135</sup>Corporation], should be contained in the deed by which the mortgage is to be effected.

#### Textual Amendments

**F135** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 17 Pt. II para. 106

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#### **148 Tenant’s initial contribution and effective discount.**

- (1) The consideration for the grant of a shared ownership lease (the tenant’s “initial contribution”) shall be determined by the formula—

$$C = \frac{S(V - D)}{100}$$

and the effective discount shall be determined by the formula—

$$E = \frac{SyD}{100}$$

where—

C = the tenant’s initial contribution,

E = the effective discount,

S = the tenant’s initial share expressed as a percentage,

V = the value of the dwelling-house at the relevant time, determined in accordance with section 127, and

D = the discount which if the tenant were exercising the right to buy would be applicable under sections 129 to 131.

- (2) In determining the value of the dwelling-house for the purposes of this section, the assumptions to be made under section 127 (which vary according to whether it is the freehold or a lease which is to be acquired) are those applicable in relation to the dwelling-house for the purposes of the right to buy.

#### **149 Change of landlord after notice claiming to exercise right to shared ownership lease.**

—Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a secure tenant has given notice claiming to exercise the right to be granted a shared ownership lease, all parties shall be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

#### **150 Duty of landlord to grant shared ownership lease.**

- (1) Where a secure tenant has claimed to exercise the right to be granted a shared ownership lease and that right has been established, then, as soon as all matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house have been agreed or determined, the landlord shall grant the tenant a shared ownership lease of the dwelling-house in accordance with the following provisions of this Part.
- (2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

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(3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

## 151 Terms and effect of grant and mortgage.

- (1) A grant of a shared ownership lease in pursuance of this Part shall conform—
- (a) with Schedule 8 (terms of shared ownership lease), and
  - (b) subject to that, with Parts I and III of Schedule 6 (terms of lease granted in pursuance of right to buy);
- and part IV of Schedule 6 (charges) applies to a shared ownership lease as it applies to a lease granted in pursuance of the right to buy.
- (2) The secure tenancy comes to an end on the grant of the shared ownership lease, and if there is then a sub-tenancy section 139 of the <sup>M40</sup>Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.
- (3) Where the transaction is duly completed the sum of [<sup>F136</sup>£150] deposited by the tenant with the landlord in pursuance of section 142 (deferment of completion) shall be treated as having been paid towards the tenant's initial contribution.
- (4) A deed by which a mortgage is effected where the tenant exercises both the right to a mortgage and the right to be granted a shared ownership lease shall, unless otherwise agreed between the parties, conform with—
- (a) Schedule 7 (terms of mortgage granted in pursuance of right to a mortgage), and
  - (b) without prejudice to that, with Schedule 9 (right to further advances).

### Textual Amendments

**F136** “£150” substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(2\)\(3\)\(4\)](#)

### Marginal Citations

**M40** 1925 c. 20.

VALID FROM 11/10/1993

## <sup>F137</sup>151A Redemption of landlord's share.

Schedule 6A (which makes provision for the redemption of the landlord's share) shall have effect; and a conveyance of the freehold or a grant of a lease executed in pursuance of the right to acquire on rent to mortgage terms shall conform with that Schedule.]

### Textual Amendments

**F137** S. 151A inserted (11.10.1993) by [1993 c. 28, s. 117\(1\)](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

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VALID FROM 11/10/1993

**[<sup>F138</sup>151B Mortgage for securing redemption of landlord's share.**

- (1) The liability that may arise under the covenant required by paragraph 1 of Schedule 6A (covenant for the redemption of the landlord's share in the circumstances there mentioned) shall be secured by a mortgage.
- (2) Subject to subsections (3) and (4), the mortgage shall have priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.
- (3) The following, namely—
  - (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the mortgage, and
  - (b) any further advance which is so secured,
 shall rank in priority to the mortgage if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.
- (4) The landlord may at any time by written notice served on an approved lending institution postpone the mortgage to any advance or further advance which—
  - (a) is made to the tenant by that institution, and
  - (b) is secured by a legal charge not having priority to the mortgage;
 and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.
- (5) The approved lending institutions for the purposes of this section are—
  - the Corporation,
  - a building society,
  - a bank,
  - a trustee savings bank,
  - an insurance company,
  - a friendly society,
  - and any body specified, or of a class or description specified, in an order made under section 156.
- (6) The approved purposes for the purposes of this section are—
  - (a) to enable the tenant to make an interim or final payment,
  - (b) to enable the tenant to defray, or to defray on his behalf, any of the following—
    - (i) the cost of any works to the dwelling-house,
    - (ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and

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- (iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and
- (c) to enable the tenant 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 mortgage,
  - (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.
- (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.
- (8) The Secretary of State may by order prescribe—
  - (a) matters for which the deed by which the mortgage is effected must make provision, and
  - (b) terms which must, or must not, be contained in that deed, but only in relation to deeds executed after the order comes into force.
- (9) The deed by which the mortgage is effected may contain such other provisions as may be—
  - (a) agreed between the mortgagor and the mortgagee, or
  - (b) determined by the county court to be reasonably required by the mortgagor or the mortgagee.
- (10) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F138** S. 151B inserted (11.10.1993) by 1993 c. 28, s. 118; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

## 152 Landlord's first notice to complete.

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
  - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
  - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,and informing the tenant of the effect of this section and of section 153(1), (2) and (4) (landlord's second notice to complete and its effect).

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- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) A notice under this section shall not be served before the end of the period of [<sup>F139</sup>three years] after the service of the tenant's notice under section 122 (notice claiming to exercise right to buy) or, if later, nine months after the service of the notice under section 135 (landlord's notice of terms and amount of mortgage).
- (4) A notice under this section shall not be served if—
  - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
  - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
  - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- (5) In this section “relevant matters” means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

#### Textual Amendments

**F139** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. 1 para. 5(1)(3)(4)**

### 153 Landlord's second notice to complete.

- (1) If the tenant does not comply with a notice under section 152 (landlord's first notice to complete), the landlord may serve on him a further written notice—
  - (a) requiring him to complete the transaction within a period stated in the notice, and
  - (b) informing him of the effect of this section in the event of his failing to comply.
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- (3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).
- (4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to be granted a shared ownership lease and the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).
- (5) If a notice under this section has been served on the tenant and by virtue of section 150(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

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VALID FROM 11/10/1993

*[<sup>F140</sup> Tenant's sanction for landlord's delays]*

**Textual Amendments**

**F140** Heading inserted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 13(1)**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

**[<sup>F141</sup> 153A] Tenant's notices of delay.**

(1) Where a secure tenant has claimed to exercise the right to buy, he may serve on his landlord a notice (in this section referred to as an “initial notice of delay”) in any of the following cases, namely,—

- (a) where the landlord has failed to serve a notice under section 124 within the period appropriate under subsection (2) of that section;
- (b) where the tenant's right to buy has been established and the landlord has failed to serve a notice under section 125 within the period appropriate under subsection (1) of that section;

<sup>F142</sup>(c) .....

<sup>F142</sup>(d) .....

- (e) where the tenant considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy or his [<sup>F143</sup>right to acquire on rent to mortgage terms];

and where an initial notice of delay specifies [<sup>F143</sup>either of the cases in paragraphs (a) and (b)], any reference in this section or section 153B to the default date is a reference to the end of the period referred to in the paragraph in question or, if it is later, the day appointed for the coming into force of section 124 of the Housing Act 1988.

(2) An initial notice of delay—

- (a) shall specify the most recent action of which the tenant is aware which has been taken by the landlord pursuant to this Part of this Act; and
- (b) shall specify a period (in this section referred to as “the response period”), not being less than one month, beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (3) will have the effect of cancelling the initial notice of delay.

(3) Within the response period specified in an initial notice of delay or at any time thereafter, the landlord may serve on the tenant a counter notice in either of the following circumstances—

- (a) if the initial notice specifies [<sup>F144</sup>either of the cases in paragraphs (a) and (b)] of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, [<sup>F144</sup>or section 125], as the case may be; or
- (b) if the initial notice specifies the case in subsection (1)(e) and there is no action under this Part which, at the beginning of the response period, it was for the landlord to take in order to allow the tenant expeditiously to exercise his right to buy or his [<sup>F144</sup>right to acquire on rent to mortgage terms] and which remains to be taken at the time of service of the counter notice.

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- (4) A counter notice under subsection (3) shall specify the circumstances by virtue of which it is served.
- (5) At any time when—
  - (a) the response period specified in an initial notice of delay has expired, and
  - (b) the landlord has not served a counter notice under subsection (3),
 the tenant may serve on the landlord a notice (in this section and section 153B referred to as an “operative notice of delay”) which shall state that section 153B will apply to payments of rent made by the tenant on or after the default date or, if the initial notice of delay specified the case in subsection (1)(e), the date of the service of the notice.
- (6) If, after a tenant has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the tenant has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the tenant may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.]

**Textual Amendments**

- F141** Ss. 153A, 153B inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 124
- F142** S. 153A(1)(c)(d) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).
- F143** Words in s. 153A(1) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 13\(2\)](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).
- F144** Words in s. 153A(3) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 13\(3\)](#); [S.I. 1993/2134, arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

**[<sup>F145</sup>153B Payments of rent attributable to purchase price etc.**

- (1) Where a secure tenant has served on his landlord an operative notice of delay, this section applies to any payment of rent which is made on or after the default date or, as the case may be, the date of the service of the notice and before the occurrence of any of the following events (and, if more than one event occurs, before the earliest to occur)—
  - (a) the service by the landlord of a counter notice under section 153A(3);
  - (b) the date on which the landlord makes to the tenant the grant required by section 138 or, as the case may be, section 150;
  - <sup>F146</sup>(c) .....
  - (d) the date on which the tenant withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy or, as the case may be, the notice claiming to exercise the [<sup>F147</sup>right to acquire on rent to mortgage terms]; and
  - (e) the date on which the tenant ceases to be entitled to exercise the right to buy.
- (2) Except where this section ceases to apply on a date determined under [<sup>F147</sup>paragraph (d) or (e)] of subsection (1), so much of any payment of rent to which this section applies as does not consist of—
  - (a) a sum due on account of rates [<sup>F148</sup>or council tax], or
  - (b) a service charge (as defined in section 621A),



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shall be treated not only as a payment of rent but also as a payment on account by the tenant which is to be taken into account in accordance with subsection (3).

- (3) In a case where subsection (2) applies, the amount which, apart from this section, would be the purchase price or, as the case may be, the [F147the tenant's initial payment] shall be reduced by an amount equal to the aggregate of—
- (a) the total of any payments on account treated as having been paid by the tenant by virtue of subsection (2); and
  - (b) if those payments on account are derived from payments of rent referable to a period of more than twelve months, a sum equal to the appropriate percentage of the total referred to in paragraph (a).
- (4) In subsection (3)(b) “the appropriate percentage” means 50 per cent. or such other percentage as may be prescribed.]

#### Textual Amendments

**F145** Ss. 153A, 153B inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 124

**F146** S. 153B(1)(c) repealed (11.10.1993) by [1993 c. 28, s. 187\(2\)](#), [Sch. 22](#); [S.I. 1993/2134](#), arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1 paras. 4\(1\), 10](#)).

**F147** Words in S. 153B substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 14](#); [S.I. 1993/2134](#), arts. 2, 4(b) (with saving in [Sch. 1 para. 4\(1\)](#)).

**F148** words in s. 153B(2)(a) inserted (1.4.1993) by [S.I. 1993/651](#), art. 2(1), [Sch. 1 para. 14](#).

### *Registration of title*

#### **154 Registration of title.**

- (1) Where the landlord's title to the dwelling-house is not registered, section 123 of the <sup>M41</sup>Land Registration Act 1925 (compulsory registration of title) applies in relation to—
- (a) the conveyance of the freehold or the grant of a lease in pursuance of this Part, or
  - (b) the conveyance of the freehold in pursuance of such a right as is mentioned in paragraph 2(1) or 8(1) of Schedule 8 (terms of shared ownership lease; right to freehold on acquiring 100 per cent. interest),
- whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of [F149more than 21 years].
- (2) Where the landlord's title to the dwelling-house is not registered, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.
- (3) Where the landlord's interest in the dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—
- (a) where it is registered, the title number;

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- (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord's lease.
- (4) A certificate under subsection (2) shall be—
- (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.
- (5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.
- (6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this part notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.
- [<sup>F150</sup>(7) Section 70(1)(k) of the <sup>M42</sup>Land Registration Act 1925 (overriding interests) shall not apply to a lease granted in pursuance of this Part.]

#### Textual Amendments

**F149** Words substituted by [Land Registration Act 1986 \(c. 26, SIF 98:2\), s. 2\(3\)](#)

**F150** [S. 154\(7\)](#) added by [Land Registration Act 1986 \(c. 26, SIF 98:2\), s. 2\(4\)](#)

#### Marginal Citations

**M41** [1925 c. 21.](#)

**M42** [1925 c.21\(98:2\).](#)

### *Provisions affecting future disposals*

#### **155 Repayment of discount on early disposal.**

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to buy, there is no discount) a covenant binding on the secure tenant and his successors in title to the following effect.
- (2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay to the landlord on demand, if within a period of [<sup>F151</sup>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), the discount to which the secure tenant was entitled, reduced by [<sup>F151</sup>one-third] for each complete year which has elapsed after the conveyance or grant and before the disposal.
- (3) In the case of a grant in pursuance of the right to be granted a shared ownership lease, the covenant shall be to pay to the landlord on demand, if within a period of [<sup>F151</sup>three-years] commencing with the acquisition by the tenant of his initial share or the acquisition by him of an additional share 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), the aggregate of—

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- (a) the effective discount (if any) to which the tenant was entitled on the acquisition of his initial share, and
  - (b) for each additional share, the effective discount (if any) to which the tenant was entitled on the acquisition of that share,
- reduced, in each case, by [<sup>F151</sup>one-third] for each complete year which has elapsed after the acquisition and before the disposal.

[<sup>F152</sup>(3A) Where a secure tenant has served on his landlord an operative notice of delay, as defined in section 153A,—

- (a) the three years referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section; and
- (b) any reference in subsection (3) (other than paragraph (a) thereof ) to the acquisition of the tenant's initial share shall be construed as a reference to a date which precedes that acquisition by the period referred to in paragraph (a) of this subsection.]

#### Textual Amendments

**F151** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 2\(3\)](#)

**F152** [S. 155\(3A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 para. 41](#)

VALID FROM 18/01/2005

#### [<sup>F153</sup>155A] Amount of discount which may be demanded by landlord: right to buy

- (1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (2) 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 discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.
- (3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (4) This section is subject to section 155C.

#### Textual Amendments

**F153** [Ss. 155A, 155B](#) inserted (18.1.2005) by [Housing Act 2004 \(c. 34\), ss. 185\(4\)\(5\), 270\(3\)](#)

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VALID FROM 18/01/2005

**155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms**

- (1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—
  - (a) the initial payment,
  - (b) any interim payment made before the disposal, or
  - (c) the final payment if so made,
 reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal.]

**Textual Amendments**

**F153** Ss. 155A, 155B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. **185(4)(5)**, 270(3)

VALID FROM 18/01/2005

**[<sup>F154</sup>155C] Increase attributable to home improvements**

- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance or grant 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.]

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### Textual Amendments

**F154** S. 155C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 186(1), 270(3)**

## 156 Liability to repay is a charge on the premises.

- (1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
  - (a) left outstanding by the tenant in exercising the right to buy or the right to be granted a shared ownership lease, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to exercise that right, or
  - (c) further advanced to him by that institution;but the landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the tenant by that institution
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the<sup>M43</sup> Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- [<sup>F155</sup>(3A) The covenant required by section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the tenant, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, 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.]
- (4) The approved lending institutions for the purposes of this section are—
  - the [<sup>F156</sup>Corporation],
  - a building society,
  - a bank
  - a trustee savings bank,
  - an insurance company,
  - a friendly society,and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.
- (5) An order under subsection (4)—
  - (a) shall be made by statutory instrument, and
  - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which,

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if the order were made, would cease to be an approved lending institution for the purposes of this section.

#### Textual Amendments

**F155** S. 156(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), Sch. 5 Pt. I para. 1(2)(5)

**F156** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 17 Pt. II para. 106**

#### Marginal Citations

**M43** 1925 c. 21.

VALID FROM 18/01/2005

#### <sup>F157</sup> 156A Right of first refusal for landlord etc.

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, 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 or grant 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 landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, 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 158.
- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the dwelling-house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the former tenant 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

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- 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 former tenant 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 former tenant 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 former tenant is a reference to the former tenant or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) In a case to which section 157(1) applies—
- (a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but
  - (b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.
- (9) Consent may be given in relation to—
- (a) a particular disposal, or
  - (b) disposals by a particular landlord or disposals by landlords generally, and may, in any case, be given subject to conditions.
- (10) 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.
- (11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.
- (12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.]

#### Textual Amendments

F157 S. 156A inserted (18.1.2005) by Housing Act 2004 (c. 34), ss. 188(1)(5)(6), 270(3)

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## 157 Restriction on disposal of dwelling-houses in National Parks, etc.

- (1) Where in pursuance of this Part a conveyance or grant is executed by a local authority, the Development Board for Rural Wales or a housing association (“the landlord”) of a dwelling-house situated in—
  - (a) a National Park,
  - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
  - (c) an area designated by order of the Secretary of State as a rural area,
 the conveyance or grant may contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.
- (2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his
  - [<sup>F158</sup>(a)] , there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3) [<sup>F159</sup>and—
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house].
- (3) The condition is that 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 [<sup>F160</sup>or, in the case of a disposal by way of tenancy or licence, preceding the disposal]—
  - (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
  - (b) had his only or principal home in such a region;
 or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.
- (4) If the Secretary of State or, where the landlord is a housing association, the [<sup>F161</sup>Corporation], consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—
  - (a) the tenant (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
  - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Secretary of State or the [<sup>F161</sup>Corporation] under subsection (4) may be given subject to such conditions as he or, as the case may be, the Corporation, thinks fit.
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void [<sup>F162</sup>and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—



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- (a) the landlord were possessed of land adjacent to the house concerned; and
- (b) the covenant were expressed to be made for the benefit of such adjacent land].

[<sup>F163</sup>(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.]

- (7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of the <sup>M45</sup>Land Registration Act 1925.
- (8) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F158** “(a)” inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(2\)\(6\)](#)
- F159** “and” and s. 157(2)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(2\)\(6\)](#)
- F160** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(3\)\(6\)](#)
- F161** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(2\), Sch. 17 Pt. II para. 106](#)
- F162** Words beginning “and, so far” and s. 157(6)(a)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(4\)\(6\)](#)
- F163** [S.157\(6A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(5\)\(6\)](#)

#### Marginal Citations

- M44** 1949 c. 97.
- M45** 1925 c. 21.

### 158 Consideration for reconveyance or surrender under s. 157.

- (1) The consideration for the offer by a tenant, referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord 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 as the value of the dwelling-house at the time the offer is made.
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—
  - (a) the covenant required by section 155 (repayment of discount on early disposal), and
  - (b) any covenant required by paragraph 6 of Schedule 8 (payment for outstanding share on disposal of dwelling-house subject to shared ownership lease),would be discharged by the vendor.
- (3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced [<sup>F164</sup>, subject to subsection (4),] by such amount (if any) as, on a disposal made at the

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time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

- [<sup>F165</sup>(4) Where there is a charge on the dwelling-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 to reconvey or surrender.]

#### Textual Amendments

**F164** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), **Sch. 5 Pt. I para. 1(3)**  
(5)

**F165** S. 158(4) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), Sch. 5 Pt. I para. 1(3)  
(5)

### 159 Relevant disposals.

- (1) A disposal, whether of the whole or part of the dwelling-house, is a relevant disposal for the purposes of this Part if it is—
- (a) a further conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- (a) 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
  - (b) that any option to terminate a lease or sub-lease is not exercised.

### 160 Exempted disposals.

- (1) A disposal is an exempted disposal for the purposes of this Part if—
- (a) it is a disposal of the whole of the dwelling-house and a further 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 (2));
  - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the dwelling-house in pursuance of an order made under section 24 of the <sup>M46</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the <sup>M47</sup>Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
  - (d) it is a compulsory disposal (as defined in section 161); or
  - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person, or one of the persons, by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person, or one of those persons, or

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- (c) 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.

#### Marginal Citations

M46 1973 c. 18.

M47 1975 c. 63.

### 161 Meaning of “compulsory disposal”.

In this Part a “compulsory disposal” means 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.

### 162 Exempted disposals which end liability under covenants.

Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house)—

- (a) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

### 163 Treatment of options.

- (1) For the purposes of this Part 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.
- (2) For the purposes of section 157(2) (requirement of consent to disposal of dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

VALID FROM 18/01/2005

#### <sup>F166</sup>163A Treatment of deferred resale agreements for purposes of section 155

- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 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

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- (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 secure tenant or his successor in title and any other person—
  - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,
  - (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)—
  - (a) whether or not the date on which the disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make the 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 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004).]

#### **Textual Amendments**

**F166** S. 163A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 187, 270(3)

### *Powers of Secretary of State*

#### **164 Secretary of State’s general power to intervene.**

- (1) The Secretary of State may use his powers under this section where it appears to him that tenants generally, a tenant or tenants of a particular landlord, or tenants of a description of landlords, have or may have difficulty in exercising effectively and expeditiously the right to buy or the right to be granted a shared ownership lease.
- (2) The powers may be exercised only after he has given the landlord or landlords notice in writing of his intention to do so and while the notice is in force.

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- (3) Such a notice shall be deemed to be given 72 hours after it has been sent.
- (4) Where a notice under this section has been given to a landlord or landlords, no step taken by the landlord or any of the landlords while the notice is in force or before it was given has any effect in relation to the exercise by a secure tenant of the right to buy, the right to a mortgage or the right to be granted a shared ownership lease, except in so far as the notice otherwise provides.
- (5) While a notice under this section is in force the Secretary of State may do all such things as appear to him necessary or expedient to enable secure tenants of the landlord or landlords to which the notice was given to exercise the right to buy, the right to a mortgage and the right to be granted a shared ownership lease; and he is not bound to take the steps which the landlord would have been bound to take under this Part.
- (6) Where in consequence of the exercise by a secure tenant of the right to a mortgage a landlord becomes a mortgagee of a dwelling-house whilst a notice under this section is in force in relation to the landlord and to the dwelling-house, then, while the notice remains in force—
  - (a) the Secretary of State may, on behalf of the mortgagee, receive any sums due to it and exercise all powers and do all things which the mortgagee could have exercised or done, and
  - (b) the mortgagee shall not receive any such sum, exercise any such power or do any such thing, except with the consent of the Secretary of State, which may be given subject to such conditions as the Secretary of State thinks fit.

## **165 Vesting orders for purposes of s. 164.**

- (1) For the purpose of conveying a freehold or granting a lease in the exercise of his powers under section 164 the Secretary of State may execute a document, to be known as a vesting order, containing such provisions as he may determine; and for the purposes of stamp duty the vesting order shall be treated as a document executed by the landlord.
- (2) A vesting order has the like effect, except so far as it otherwise provides, as a conveyance or grant duly executed in pursuance of this Part, and, in particular, binds both the landlord and its successors in title and the tenant and his successors in title (including any person deriving title under him or them) to the same extent as if the covenants contained in it and expressed to be made on their behalf had been entered into by them.
- (3) If the landlord's title to the dwelling-house in respect of which a vesting order is made is not registered, the vesting order shall contain a certificate stating that the freehold conveyed or grant made by it is subject only to such incumbrances, rights and interests as are stated elsewhere in the vesting order or summarised in the certificate.
- (4) The Chief Land Registrar shall, on a vesting order being presented to him, register the tenant as proprietor of the title concerned; and if the title has not previously been registered—
  - (a) he shall so register him with an absolute title, or as the case may require a good leasehold title, and
  - (b) he shall, for the purpose of the registration, accept any such certificate as is mentioned in subsection (3) as sufficient evidence of the facts stated in it.

(5) ..... F167

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- (6) If a person suffers loss in consequence of a registration under this section in circumstances in which he would have been entitled to be indemnified under section 83 of the Land Registration Act 1925 by the Chief Land Registrar had the registration of the tenant as proprietor of the title been effected otherwise than under this section, he is instead entitled to be indemnified by the Secretary of State and section 166(4) of this Act (recovery of Secretary of State's costs from landlord) applies accordingly.

#### Textual Amendments

**F167** S. 165(5) repealed by [Land Registration Act 1988 \(c. 3, SIF 98:2\)](#), ss. 1(2)(d), 2, [Sch.](#)

### 166 Other provisions supplementary to s. 164.

- (1) A notice under section 164 may be withdrawn by a further notice in writing, either completely or in relation to a particular landlord or a particular case or description of case.
- (2) The further notice may give such directions as the Secretary of State may think fit for the completion of a transaction begun before the further notice was given; and such directions are binding on the landlord, and may require the taking of steps different from those which the landlord would have been required to take if the Secretary of State's powers under section 164 had not been used.
- (3) Where in consequence of the exercise of his powers under section 164 the Secretary of State receives sums due to a landlord, he may retain them while a notice under that section is in force in relation to the landlord and is not bound to account to the landlord for interest accruing on them.
- (4) Where the Secretary of State exercises his powers under section 164 with respect to secure tenants of a landlord, he may—
- (a) calculate, in such manner and on such assumptions as he may determine, the costs incurred by him in doing so, and
  - (b) certify a sum as representing those costs;
- and a sum so certified is a debt from the landlord to the Secretary of State payable on a date specified in the certificate, together with interest from that date at a rate so specified.
- (5) sums payable under subsection (4) may, without prejudice to any other method of recovery, be recovered from the landlord by the withholding of sums due from the Secretary of State, including sums payable to the landlord and received by the Secretary of State in consequence of his exercise of his powers under section 164.
- (6) In this section the references to a landlord include references to a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage, and the references to the powers of the Secretary of State with respect to the secure tenants of a landlord include references to the powers of the Secretary of State to act on behalf of such a mortgagee.

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**167 Power to give directions as to covenants and conditions.**

- (1) Where it appears to the Secretary of State that, if covenants or conditions of any kind were included in conveyances or grants of dwelling-houses of any description executed in pursuance of this Part—
  - (a) the conveyances would not conform with Parts I and II of Schedule 6, or
  - (b) the grants would not conform with Parts I and III of that Schedule.

he may direct landlords generally, landlords of a particular description or particular landlords not to include covenants or conditions of that kind in such conveyances or grants executed on or after a date specified in the direction.

- (2) A direction under this section may be varied or withdrawn by a subsequent direction.

**168 Effect of direction under s. 167 on existing covenants and conditions.**

- (1) If a direction under section 167 so provides, the provisions of this section shall apply in relation to a covenant or condition which—
  - (a) was included in a conveyance or grant executed before the date specified in the direction, and
  - (b) could not have been so included if the conveyance or grant had been executed on or after that date.

- (2) The covenant or condition shall be discharged or (if the direction so provides) modified, as from the specified date, to such extent or in such manner as may be provided by the direction; and the discharge or modification is binding on all persons entitled or capable of becoming entitled to the benefit of the covenant or condition.

- (3) The landlord by whom the conveyance or grant was executed shall, within such period as may be specified in the direction—
  - (a) serve on the person registered as the proprietor of the dwelling-house, and on any person registered as the proprietor of a charge affecting the dwelling-house, a written notice informing him of the discharge or modification, and
  - (b) on behalf of the person registered as the proprietor of the dwelling-house, apply to the Chief Land Registrar (and pay the appropriate fee) for notice of the discharge or modification to be entered in the register.

- (4) ..... **F168**

- (5) Notwithstanding anything in section 64 of the Land Registration Act 1925 (certificates to be produced and noted on dealings), notice of the discharge or modification may be entered in the register without the production of any land certificate outstanding in respect of the dwelling-house, but without prejudice to the power of the Chief Land Registrar to compel production of the certificate for the purposes mentioned in that section.

**Textual Amendments**

**F168** S. 168(4) repealed by Land Registration Act 1988 (c. 3, SIF 98:2), s. 2, Sch.

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## **169 Power to obtain information, etc.**

- (1) Where it appears to the Secretary of State necessary or expedient for the purpose of determining whether his powers under section 164 or 166 (general power to intervene) or section 167 or 168 (power to give directions as to covenants and conditions) are exercisable, or for or in connection with the exercise of those powers, he may by notice in writing to a landlord require it—
  - (a) at such time and at such place as may be specified in the notice, to produce any document, or
  - (b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.
- (2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.
- (3) In this section references to a landlord include—
  - (a) a landlord by whom a conveyance or grant was executed in pursuance of this Part, and
  - (b) a body which has become a mortgagee in consequence of the exercise by a secure tenant of the right to a mortgage.

## **170 Power to give assistance in connection with legal proceedings.**

- (1) This section applies to—
  - (a) proceedings under this Part or to determine a question arising under or in connection with this Part, and
  - (b) proceedings to determine a question arising under or in connection with a conveyance or grant executed in pursuance of this Part,
 other than proceedings to determine a question as to the value of a dwelling-house (or part of a dwelling-house).
- (2) A party or prospective party to proceedings or prospective proceedings to which this section applies, who—
  - (a) has claimed to exercise or has exercised the right to buy or the right to be granted a shared ownership lease, or
  - (b) is a successor in title of a person who has exercised either of those rights,
 may apply to the Secretary of State for assistance under this section.
- (3) The Secretary of State may grant the application if he thinks fit to do so on the ground—
  - (a) that the case raises a question of principle, or
  - (b) that it is unreasonable having regard to the complexity of the case, or to any other matter, to expect the applicant to deal with it without such assistance,
 or by reason of any other special consideration.
- (4) Assistance by the Secretary of State under this section may include—
  - (a) giving advice.
  - (b) procuring or attempting to procure the settlement of the matter in dispute,



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- (c) arranging for the giving of advice or assistance by a solicitor or counsel,
- (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings, and
- (e) any other form of assistance which the Secretary of State may consider appropriate;

but paragraph (d) does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.

- (5) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Secretary of State—
  - (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;

but subject to any charge under the [<sup>F169</sup>Legal Aid Act 1988] and to any provision of that Act for payment of any sum [<sup>F170</sup>to the Legal Aid Board].

- (6) References in this section to a solicitor include the Treasury Solicitor.

#### Textual Amendments

**F169** Words substituted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 5 para. 20\(a\)](#)

**F170** Words substituted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 5 para. 20\(b\)](#)

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

**C76** [S. 170](#) applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

**C77** [S. 170\(4\)\(c\)\(d\)](#) amended (1.1.1992) by [S.I. 1991/2684](#), arts. 2(1), 4, 5, [Sch. 1](#)

*Power to extend right to buy, etc.*

## 171 Power to extend right to buy, etc.

- (1) The Secretary of State may by order provide that, where there are in a dwelling-house let on a secure tenancy one or more interest to which this section applies, this Part and Part IV (secure tenancies) have effect with such modifications as are specified in the order.
- (2) This section applies to an interest held by—
  - a local authority,
  - a new town corporation,
  - [<sup>F171</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales,
  - the [<sup>F172</sup>Corporation], or

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a registered housing association,  
which is immediately superior to the interest of the landlord or to another interest to which this section applies.

- (3) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case;
  - (b) may contain such consequential, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F171** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 83\(5\)](#)

**F172** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(2\), Sch. 17 Pt. II para. 106](#)

*f<sup>F173</sup> Preservation of right to buy on disposal to private sector landlord*

#### Textual Amendments

**F173** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 8\(1\)](#)

### 171A Cases in which right to buy is preserved.

- (1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).
- (2) In the following provisions of this Part—
  - (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply;
  - (b) “qualifying disposal” means a disposal in relation to which this section applies, and
  - (c) “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).
- (3) This section does not apply—
  - (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
  - (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.
- (4) Orders under subsection (3)(b)—

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- (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F174</sup>171B] **Extent of preserved right: qualifying persons and dwelling-houses.**

- (1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home, subject to the following provisions of this Part.
- (2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.
- (3) The following are the persons to whom this section applies—
  - (a) the former secure tenant, or in the case of a joint tenancy, each of them;
  - (b) a qualifying successor as defined in subsection (4); and
  - (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.
- (4) The following are qualifying successors for this purpose—
  - [<sup>F175</sup>(a) where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was tenant under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant’s family who acquired that assured tenancy under the will or intestacy of the former secure tenant;
  - (aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant’s family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy]
  - (b) a person who becomes the tenant of a dwelling-house in pursuance of—
    - (i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or
    - (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 transferring the tenancy,in place of a person who had the preserved right to buy in relation to that dwelling-house.
- (5) The relevant dwelling-house is in the first instance—
  - (a) in relation to a person within paragraph(a) subsection (3), the dwelling-house which was the subject of the qualifying disposal;
  - (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in subsection (4)(a) or (b);
  - (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.
- (6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house)

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and the landlord is the same person as the landlord of the previous dwelling-house or, where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.]

#### Textual Amendments

**F174** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**F175** S. 171B(4)(a)(aa) substituted for S. 171B(4)(a) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 127(1)

#### [<sup>F176</sup>171C Modifications of this Part in relation to preserved right.

- (1) Where the right to buy is preserved, the provisions of this Part have effect subject to such exceptions, adaptations and other modifications as may be prescribed by regulations made by the Secretary of State.
- (2) The regulations may in particular provide—
  - (a) that paragraphs [<sup>F177</sup>1, 3 and] 5 to 11 of Schedule 5 (certain exceptions to the right to buy) do not apply;
  - (b) that the right to a mortgage is exercisable against the former landlord or, if the former landlord was a housing association, against the [<sup>F178</sup>Corporation];
  - (c) that the provisions of this Part relating to the right to be granted a shared ownership lease do not apply; and
  - (d) that the landlord is not required to but may include a covenant for the repayment of discount, provided its terms are no more onerous than those of the covenant provided for in section 155.
- (3) The prescribed exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of this Part as they apply in cases where the right to buy is preserved; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of this Part as they so apply.
- (4) The regulations—
  - (a) may make different provision for different cases or descriptions of case, including different provision for different areas,
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate, and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[ The disapplication by the regulations of paragraph 1 of Schedule 5 shall not be taken <sup>F179</sup>(5) to authorise any action on the part of a charity which would conflict with the trusts of the charity.]]

#### Textual Amendments

**F176** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**F177** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 127(2)

**F178** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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**F179** S. 171C(5) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 127(3)

[<sup>F180</sup>**171D**Subsequent dealings: disposal of landlord's interest in qualifying dwelling-house.

- (1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—
  - (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
  - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),in which case the right to buy ceases to be preserved.
- (2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.
- (3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.
- (4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.]

**Textual Amendments**

**F180** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

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

**C78** S. 171D: transfer of functions (prosp.) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 190(a), 325

[<sup>F181</sup>**171E**Subsequent dealings: termination of landlord's interest in qualifying dwelling-house.

- (1) On the termination of the landlord's interest in the qualifying dwelling-house—
  - (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
  - (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),the right to buy ceases to be preserved.
- (2) The termination of the landlord's interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord's interest together with a superior interest, does not affect the preserved right to buy, unless—
  - (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or

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- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),  
in which case the right to buy ceases to be preserved.
- (3) Where the termination of the landlord's interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.]

#### Textual Amendments

**F181** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

#### [<sup>F182</sup>171F] **Subsequent dealings: transfer of qualifying person to alternative accommodation.**

The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 [<sup>F183</sup>or on Ground 9 in Schedule 2 to the Housing Act 1988] (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—
- (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
  - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or
- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).]

#### Textual Amendments

**F182** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

**F183** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 42**

#### [<sup>F184</sup>171G] **Land registration and related matters.**

Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.]

#### Textual Amendments

**F184** Ss. 171A–171H inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 8(1)

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[<sup>F185</sup> **171H** Disposal after notice claiming to exercise right to buy, etc.

(1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy or the right to a mortgage and before the completion of the exercise of that right the dwelling-house is the subject of—

- (a) a qualifying disposal, or
- (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the disponent had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

(2) If the circumstances after the disposal differ in any material respect, as for example where—

- (a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
- (b) the right to a mortgage becomes exercisable against the [<sup>F186</sup>Corporation] rather than the former landlord, or *vice versa*, or
- (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.]

**Textual Amendments**

**F185** Ss. 171A–171H inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 8(1)

**F186** Word substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), Sch. 17 Pt. II para. 106

*Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part*

**172 Exclusion of leases where landlord is housing association and freeholder is a charity.**

(1) Part I of the <sup>M48</sup>Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

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#### Marginal Citations

M48 1967 c. 88.

### 173 Exclusion of shared ownership leases granted under this Part.

- (1) Where a tenancy of a dwelling-house which is a house is created by the grant of a lease in pursuance of the right to be granted a shared ownership lease, then, so long as the rent payable under the lease exceeds £10 per annum, neither the tenant nor the tenant under a sub-tenancy directly or indirectly derived out of the tenancy shall be entitled to acquire the free-hold or an extended lease of the dwelling-house under Part I of the Leasehold Reform Act 1967.
- (2) Subsection (1) applies notwithstanding the provisions of section 174 (leases granted under this Part to be treated as long leases at a low rent).

### 174 Leases granted under this Part to be treated as long leases at a low rent.

For the purposes of Part I of the <sup>M49</sup>Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

- (a) a tenancy created by the grant of a lease in pursuance of this part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less, and
- (b) a tenancy created by the grant of such a lease in pursuance of the right to be granted a shared ownership lease shall be treated as being a tenancy at a low rent notwithstanding that rent is payable under the tenancy at a yearly rate equal to or more than two-thirds of the rateable value of the dwelling-house on the first day of the term [<sup>F187</sup>or more than the relevant amount specified in section 4(1)(ii) of that Act].

#### Textual Amendments

F187 Words inserted by S.I. 1990/434, reg. 2, Sch. para. 19

#### Marginal Citations

M49 1967 c. 88.

### 175 Determination of price payable.

- (1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that [<sup>F188</sup>the circumstances specified in that section do not apply].
- (2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.
- (3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within



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subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

- (4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).
- (5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

#### Textual Amendments

**F188** Words substituted by [S.I. 1990/434, reg. 2, Sch. para. 20](#)

### *Supplementary provisions*

#### **176 Notices.**

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Part and the particulars to be contained in the notice.
- (2) Where the form of, and the particulars to be contained in, a notice under this Part are so prescribed, a tenant who proposes to claim, or has claimed, to exercise the right to buy may request the landlord to supply him with a form for use in giving such notice; and the landlord shall do so within seven days of the request.
- (3) A notice under this Part may be served by sending it by post.
- (4) Where the landlord is a housing association, a notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the tenant usually deals.
- (5) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument.

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

**C79** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(1\), Sch. 5 Pt. I para. 5\(6\)](#)

#### **177 Errors and omissions in notices.**

- (1) A notice served by a tenant under this Part is not invalidated by an error in, or omission from, the particulars which are required by regulations under section 176 to be contained in the notice.
- (2) Where as a result of such an error or omission—
  - (a) the landlord has mistakenly admitted or denied the right to buy or the right to be granted a shared ownership lease in a notice under section 124 or 146, or

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- (b) the landlord or the <sup>F189</sup>Corporation] has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions mentioned in sub-section (3) and has stated that opinion in the notice,
- the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the propose of securing that all parties are, as nearly as may be, in the same position as they would have been if the mistake had not been made.
- (3) The provisions referred to in subsection (2)(b) are—
- section 125 (notice of purchase price, etc.),
  - section 135 (notice of mortgage entitlement),
  - section 147 (notice of initial contribution),
  - paragraph 1(3) of Schedule 8 (notice of additional contribution), and
  - paragraph 5 of Schedule 9 (notice of entitlement to further advance).
- (4) Subsection (2) does not apply where the tenant has exercised the right to which the notice relates before the parties become aware of the mistake.

#### Textual Amendments

**F189** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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

**C80** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

**C81** S. 177 excluded by [Housing Act 1988 \(c. 50, SIF 61\)](#), [ss. 122\(4\), 123\(4\)](#)

## 178 Costs.

- (1) An agreement between—
- (a) the landlord and a tenant claiming to exercise the right to buy, the right to be granted a shared ownership lease, or any such right as is mentioned in paragraphs 1(1), 2 or 8 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares or call for conveyance of freehold), or
  - (b) the landlord or, as the case may be, the <sup>F190</sup>Corporation] and a tenant claiming to exercise the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances),
- is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord or <sup>F190</sup>Corporation] in connection with the tenant's exercise of that right.
- (2) Where a tenant exercises the right to a mortgage, or such a right as is mentioned in paragraph 1 of Schedule 9 (right to further advances), the landlord or, as the case may be, the <sup>F190</sup>Corporation] may charge to him the costs incurred by it in connection with his exercise of that right, but only—
- (a) on the execution of the deed by which the mortgage is effected, and
  - (b) to the extent that the costs do not exceed such amount as the Secretary of State may by order specify.
- (3) An order under this section—

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- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F190** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

### 179 Provisions restricting right to buy, etc. of no effect.

- (1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—
  - (a) the grant of a lease in pursuance of the right to buy or the right to be granted a shared ownership lease, or
  - (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so grantedor to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.
- (2) Where a dwelling-house let on a secure tenancy is land held—
  - (a) for the purposes of section 164 of the <sup>M50</sup>Public Health Act 1875 (pleasure grounds), or
  - (b) in accordance with section 10 of the <sup>M51</sup>Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),then, for the purposes of this Part, the dwelling-house shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with section 164 or, as the case may be, section 10.

#### Marginal Citations

**M50** 1875 c. 55.

**M51** 1906 c. 25.

### 180 Statutory declarations.

A landlord, the [<sup>F191</sup>Corporation] or the Secretary of State may, if the landlord, Corporation or Secretary of State thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

#### Textual Amendments

**F191** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

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

**C82** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

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## 181 Jurisdiction of county court.

- (1) A county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part, and
  - (b) to determine any question arising under this Part or under a shared ownership lease granted in pursuance of this Part;
 but subject to sections 128 and 158 and paragraph 11 of Schedule 8 (which provide for matters of valuation to be determined by the district valuer).
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.
- [<sup>F192</sup>(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.]
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—
  - (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
  - (b) for the conduct of proceedings in private.
- (5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F192** S. 181(3) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 124(3)(4), 125(7), **Sch. 20**

### Modifications etc. (not altering text)

**C83** Ss. 176, 177, 180, 181 applied by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1), **Sch. 5 Pt. I para. 5(6)**

## 182 Power to repeal or amend local Acts.

- (1) The Secretary of State may by order repeal or amend a provision of a local Act passed before 8th August 1980 where it appears to him that the provision is inconsistent with a provision of this Part relating to the right to buy or the right to a mortgage.
- (2) Before making an order under this section the Secretary of State shall consult any local housing authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.
- (4) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### **183 Meaning of “house”, “flat” and “dwelling-house”.**

- (1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.
- (2) A dwelling-house is a house if, and only if, it (or so much of its as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
  - (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
  - (b) where a building is divided vertically, the units into which it is divided may be houses;
  - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) A dwelling-house which is not a house is a flat.

### **184 Land let with or used for purposes of dwelling-house.**

- (1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the <sup>M52</sup>General Rate Act 1967) exceeding two acres.
- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
  - (a) the tenant, by a written notice served on the landlord at any time before he exercises the right to buy or the right to be granted a shared ownership lease, requires the land to be included in the dwelling-house, and
  - (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to buy or the right to be granted a shared ownership lease.
- (4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

#### **Marginal Citations**

M52 1967 c. 9.

### **185 Meaning of “secure tenancy” and “secure tenant”.**

- (1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the <sup>M53</sup>Housing Act 1980 and Part I of the <sup>M54</sup>Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.

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- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
  - (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

#### Marginal Citations

**M53** 1980 c. 51.

**M54** 1984 c. 29.

### 186 Members of a person's family.

- (1) A person is a member of another's family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as as the legitimate child of his mother and reputed father.

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

**C84** S. 186 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 79(13), [Sch. 11 para. 4\(3\)](#)

### 187 Minor definitions.

In this Part—

“improvement” means [<sup>F193</sup>, in relation to a dwelling house,] any alteration in, or addition to, [<sup>F194</sup>the dwelling-house] and includes—

- (a) any addition to, or alteration in, landlord's fixtures and fittings and any addition or alteration connected with the provision of services to [<sup>F194</sup>the dwelling-house],
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration;

[<sup>F195</sup>and shall be similarly construed in relation to any other building or land;]

[<sup>F196</sup>“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);]

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“long tenancy” means—

- (a) a long tenancy within the meaning of part IV,
- (b) [<sup>F197</sup>a tenancy falling within paragraph 1 of Schedule 1 to the <sup>M55</sup>Tenants’ Rights, Etc. (Scotland) Act 1980, or]
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the <sup>M56</sup>Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly;

“total share”, in relation to the interest of a tenant under a shared ownership lease, means his initial share plus any additional share or shares in the dwelling-house acquired by him.

#### Textual Amendments

**F193** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\), Sch. 5 Pt. II para. 30\(2\)\(a\)](#)

**F194** Words substituted by [Housing and Planning Act 1986 \(c.63, SIF 61\), s. 24\(2\), Sch. 5 Pt. II para. 30\(2\)\(b\)](#)

**F195** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\), Sch. 5 Pt. II para. 30\(2\)\(c\)](#)

**F196** Definition inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\), Sch. 5 Pt. II para. 30\(3\)](#)

**F197** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\)\(3\), Sch. 23 para. 30\(2\), Sch. 24](#) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that in s. 187, in the definition of “long tenancy”, paragraph (b) shall cease to have effect (S.)

#### Marginal Citations

**M55** 1980 c. 52.

**M56** S.I. 1983/1113 (N.I. 15).

## 188 Index of defined expressions: Part V

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

additional share and additional contribution (in relation to a tenant under a shared ownership lease)	paragraphs 1 and 3 of Schedule 8
bank	section 622
building society	section 622
cemetery	section 622
charity	section 662
compulsory disposal	section 161
co-operative housing association	section 5(2)
[ <sup>F198</sup> the Corporation]	[ <sup>F198</sup> section 6A]

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[ <sup>F199</sup> disposal and instrument effecting disposal (in Schedule 9A)]	[ <sup>F199</sup> paragraph 10 of Schedule]
dwelling-house	sections 183 and 184
effective discount (in relation to shares under a shared ownership lease)	section 148 and paragraph 3 of Schedule 8
exempted disposal	section 160
family (member of)	section 186
flat	section 183
[ <sup>F199</sup> former landlord and former secure tenant (in relation to a qualifying disposal)]	[ <sup>F199</sup> section 171A(2)(c)]
friendly society	section 622
full mortgage	section 133(5)
house	section 183
housing association	section 5(1)
housing trust	section 6
improvement	section 187
[ <sup>F199</sup> improvement contribution]	[ <sup>F199</sup> section 187]
incumbrances	paragraph 7 of Schedule 6
initial share and initial contribution (in relation to a shared ownership lease.)	sections 147 and 148
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed percentage (in relation to shares in a shared ownership lease)	section 145
[ <sup>F199</sup> preserved right to buy]	[ <sup>F199</sup> section 171A(2)(a)]
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
[ <sup>F199</sup> qualifying disposal (in relation to the preserved right to buy)]	[ <sup>F199</sup> section 171A(2)(b)]
[ <sup>F199</sup> qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)]	[ <sup>F199</sup> section 171B(1)]



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[ <sup>F199</sup> reference period (for purposes of s. 125A or 125B)]	[ <sup>F199</sup> section 125C]
registered (in relation a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 (and see section 452(3))
relevant time	section 122(2)
right to be granted a shared ownership lease	section 143
right to buy	section 118(1)
right to further advances	paragraph 1 of Schedule 9
right to a mortgage	section 132
secure tenancy and secure tenant	sections 79 and 185
[ <sup>F199</sup> service charge]	[ <sup>F199</sup> section 621A]
tenant's incumbrance	paragraph 7 of Schedule 6
total share (of a tenant under a shared ownership lease)	section 187
trustee savings bank	section 622
urban development corporation	section 4(d)

#### Textual Amendments

**F198** Entry inserted by [Housing Act 1988 \(c.50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 110](#)

**F199** Entries in s. 188 inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 31](#); S.I. 1992/1753, [art.2\(2\)](#)

## PART VI

### REPAIR NOTICES

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

**C85** Pt. VI (ss. 189–208): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 65\(2\)\(a\)\(4\)](#)

**C86** Pt. VI (ss. 189–208) applied (17.12.1996) by [1996 c. 53, s. 90\(a\)](#); S.I. 1996/2842, [art. 3](#)

#### *Repair Notices*

#### **189 Repair notice in respect of unfit [<sup>F200</sup>dwelling-house].**

- (1) [<sup>F201</sup>Subject to subsection (1A)] Where the local housing authority are satisfied that a [<sup>F200</sup>dwelling-house][<sup>F202</sup>or house in multiple occupation] is unfit for human habitation,

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they shall serve a repair notice on the person having control of the <sup>F200</sup>dwelling-house<sup>F203</sup> or house in multiple occupation<sup>F203</sup> if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action].

<sup>F204</sup>(1A) Where the local housing authority are satisfied that <sup>F205</sup>either a dwelling-house which is a flat or a flat in multiple occupation] is unfit for human habitation <sup>F205</sup>by virtue of section 604(2)], they shall serve a repair notice on the person having control of <sup>F205</sup>the part of the building in question if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action.]

<sup>F206</sup>(1B) In the case of a house in multiple occupation, a repair notice may be served on the person managing the house instead of on the person having control; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section.]

(2) A repair notice under this section shall—

- (a) require the person on whom it is served to execute the works specified in the notice <sup>F207</sup>(which may be works of repair or improvement or both)<sup>F208</sup> and to begin those works not later than such reasonable date, being not earlier than the <sup>F209</sup>twenty-eighth day after the notice is served], as is specified in the notice and to complete those works within such reasonable time as is so specified, and]
- (b) state that in the opinion of the authority the works specified in the notice will render the <sup>F210</sup>dwelling-house<sup>F207</sup> or, as the case may be, house in multiple occupation] fit for human habitation.

(3) The authority, in addition to serving the notice

- <sup>F211</sup>(a) on the person having control of <sup>F212</sup>the dwelling-house or part of the building concerned<sup>F213</sup> or
- (b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned],

<sup>F212</sup>shall] serve a copy of the notice on any other person having an interest in <sup>F212</sup>the dwelling-house <sup>F214</sup>part of the building or house] concerned], whether as freeholder, mortgagee, <sup>F212</sup>or lessee].

(4) The notice becomes operative, if no appeal is brought, on the expiration of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

<sup>F215</sup>(5) A repair notice under this section which has become operative is a local land charge.]

<sup>F216</sup>(6) This section has effect subject to the provisions of section 190A.]

#### Textual Amendments

**F200** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 1(1)(b)**

**F201** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 1(1)(a)**

**F202** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 1(1)**

**F203** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 1(1)**

**F204** S. 189(1A) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 1(2)**

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- F205** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(2)(a)(b)(c)**
- F206** S. 189(1B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(3)**
- F207** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(4)**
- F208** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 1(3)(a)**
- F209** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(4)**
- F210** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 1(3)(b)**
- F211** Word inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(5)(a)**
- F212** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 1(4)**
- F213** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(5)(b)**
- F214** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(5)(c)**
- F215** S. 189(5) added by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 1(5)**
- F216** S. 189(6) added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 1(6)**

**190 Repair notice in respect of [F217 dwelling-house][F218 or house in multiple occupation] in state of disrepair but not unfit.**

- (1) [F219 Subject to subsection (1B)] Where the local housing authority—
- (a) are satisfied that a [F217 dwelling-house][F218 or house in multiple occupation] is in such a state of disrepair that, although not unfit for human habitation, substantial repairs are necessary to bring it up to a reasonable standard, having regard to its age, character and locality, or
  - (b) are satisfied [F220 whether] on a representation made by an occupying tenant [F220 or otherwise] that a [F217 dwelling-house][F218 or house in multiple occupation] is in such a state of disrepair that, although not unfit for human habitation, its condition is such as to interfere materially with the personal comfort of the occupying tenant, [F221 or, in the case of a house in multiple occupation, the persons occupying it (whether as tenants or licensees)]

they may serve a repair notice on the person having control of the [F217 dwelling-house][F218 or house in multiple occupation].

[F222 (1A) [F223 Subject to subsection (1B)] Where the local housing authority—

- (a) are satisfied that a building containing a flat [F224 including a flat in multiple occupation] is in such a state of disrepair that, although the flat is not unfit for human habitation, substantial repairs are necessary to a part of the building outside the flat to bring the flat up to a reasonable standard, having regard to its age, character and locality, or
- (b) are satisfied, whether on a representation made by an occupying tenant or otherwise, that a building containing a flat is in such a state of disrepair that, although the flat is not unfit for human habitation, the condition of a part of the building outside the flat is such as to interfere materially with the personal comfort of the occupying tenant, [F225 or, in the case of a flat in multiple occupation, the persons occupying it (whether as tenants or licensees)]

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they may serve a repair notice on the person having control of the part of the building concerned.]

- [<sup>F226</sup>(1B) The authority may not serve a notice under subsection (1) or subsection (1A) unless—
- (a) there is an occupying tenant of the dwelling-house or flat concerned; or
  - (b) the dwelling-house or building concerned falls within a renewal area within the meaning of Part VII of the Local Government and Housing Act 1989.
- (1C) In the case of a house in multiple occupation, a notice under subsection (1) or subsection (1A) may be served on the person managing the house instead of on the person having control of it; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section.]
- (2) A repair notice under this section shall require the person on whom it is served [<sup>F227</sup>to execute the works specified in the notice, not being works of internal decorative repair, and—
- (a) to begin those works not later than such reasonable date, being not earlier than the [<sup>F228</sup>twenty-eighth day after the notice is served], as is specified in the notice; and
  - (b) to complete those works within such reasonable time as is so specified.]
- (3) The authority, in addition to serving the notice
- [<sup>F229</sup>(a)] on the person having control of [<sup>F230</sup>the dwelling-house or part of the building concerned][<sup>F231</sup>or
  - (b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned],
- [<sup>F230</sup>shall] serve a copy of the notice on any other person having an interest in [<sup>F230</sup>the dwelling-house [<sup>F232</sup>part of the building or house] concerned], whether as freeholder, mortgagee, [<sup>F230</sup>or lessee].
- (4) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of service of the notice and is final and conclusive as to matters which could have been raised on an appeal.
- [<sup>F233</sup>(5) A repair notice under this section which has become operative is a local land charge.]

#### Textual Amendments

- F217** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(1)(a)**
- F218** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(b)**
- F219** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(a)**
- F220** Words inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(1)(b)**
- F221** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(b)**
- F222** S. 190(1A) inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(2)**
- F223** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(a)**
- F224** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(c)**

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- F225** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(1)(c)**
- F226** S. 190(1B)(1C) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(2)**
- F227** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(3)**
- F228** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(3)**
- F229** “(a)” inserted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(4)(a)**
- F230** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(4)**
- F231** Word “or” and s.190(3)(b) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(4)(b)**
- F232** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 2(4)(c)**
- F233** S. 190(5) added by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 2(5)**

**[<sup>F234</sup>190A] Effect on section 189 of proposal to include premises in group repair scheme.**

- (1) A local housing authority shall not be under a duty to serve a repair notice under subsection (1) or, as the case may be, subsection (1A) of section 189 if, at the same time as they satisfy themselves as mentioned in the subsection in question, they determine—
- that the premises concerned form part of a building which would be a qualifying building in relation to a group repair scheme; and
  - that, within the period of twelve months beginning at that time, they expect to prepare a group repair scheme in respect of the qualifying building (in this section referred to as a “relevant scheme”);
- but where, having so determined, the authority do serve such a notice, they may do so with respect only to those works which, in their opinion, will not be carried out to the premises concerned in pursuance of the relevant scheme.
- (2) Subject to subsection (3), subsection (1) shall apply in relation to the premises concerned from the time referred to in subsection (1) until the date on which the works specified in a relevant scheme are completed to the authority’s satisfaction (as certified under section 130(1) of the Local Government and Housing Act 1989).
- (3) Subsection (1) shall cease to have effect in relation to the premises concerned on the day when the first of the following events occurs, that is to say,—
- the local housing authority determine not to submit a relevant scheme to the Secretary of State for approval; or
  - the expiry of the period referred to in subsection (1)(b) without either the approval of a relevant scheme within that period or the submission of a relevant scheme to the Secretary of State within that period; or
  - the Secretary of State notifies the authority that he does not approve a relevant scheme; or
  - the authority ascertain that a relevant scheme, as submitted or approved, will not, for whatever reason, involve the carrying out of any works to the premises concerned.
- (4) In any case where, in accordance with subsection (1), the authority serve a repair notice under subsection (1) or, as the case may be, subsection (1A) of section 189 with respect only to certain of the works which would otherwise be specified in the

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notice, subsection (2)(b) of that section shall have effect with respect to the notice as if after the word “notice” there were inserted the words “when taken together with works proposed to be carried out under a group repair scheme”.

- (5) In this section and section 189 “group repair scheme” and “qualifying building” have the same meaning as in Part VIII of the Local Government and Housing Act 1989.]

#### Textual Amendments

**F234** S. 190A inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 3**

### 191 Appeals against repair notices.

- (1) A person aggrieved by a repair notice may within 21 days after the date of service of the notice, appeal to the county court.
- [<sup>F235</sup>(1A) Without prejudice to the generality of subsection (1), it shall be a ground of appeal that some person other than the appellant, being a person who is an owner in relation to the dwelling-house [<sup>F236</sup>house in multiple occupation] or part of the building concerned, ought to execute the works or pay the whole or part of the cost of executing them.]
- [<sup>F237</sup>(1B) Without prejudice to the generality of subsection (1), it shall be a ground of appeal, in the case of a repair notice under section 189, that making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action; and, where the grounds on which an appeal is brought are or include that specified in this subsection, the court, on the hearing of the appeal, shall have regard to any guidance given to the local housing authority under section 604A.]
- (2) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.
- (3) Where the appeal is allowed against a repair notice under section 189 . . . <sup>F238</sup>, [<sup>F239</sup>and the reason or one of the reasons for allowing the appeal is that making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action, the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect].
- [<sup>F240</sup>(3A) Where the grounds on which an appeal is brought are or include that specified in subsection (1A), the appellant shall serve a copy of his notice of appeal on each other person referred to; and on the hearing of the appeal the court may—
- (a) vary the repair notice so as to require the works to be executed by any such other person; or
  - (b) make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.
- (3B) In the exercise of its powers under subsection (3A), the court shall take into account, as between the appellant and any such other person as is referred to in that subsection,—
- (a) their relative interests in the dwelling-house [<sup>F241</sup>or house in multiple occupation] or part of the building concerned (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);

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- (b) their relative responsibility for the state of the dwelling-house [<sup>F241</sup>or house in multiple occupation] or building which gives rise to the need for the execution of the works; and
  - (c) the relative degree of benefit to be derived from the execution of the works.
- (3C) If, by virtue of the exercise of the court powers under subsection (3A), a person other than the appellant is required to execute the works specified in a repair notice, then, so long as that other person continues to be an owner in relation to the premises to which the notice relates, he shall be regarded as the person having control of those premises for the purposes of the following provisions of this Part.]
- (4) If an appeal is brought the notice does not become operative until—
- (a) a decision on the appeal confirming the notice (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the notice (with or without variation);
- and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

#### Textual Amendments

- F235** S. 191(1A) inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 3(1)**
- F236** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 4(1)**
- F237** S. 191(1B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 4(1)**
- F238** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(a), 194(4), Sch. 9 Pt. I para. 4(2), **Sch. 12 Pt. II**
- F239** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 4(2)**
- F240** S. 191(3A)(3B)(3C) inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 3(3)**
- F241** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 4(3)**

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

- C87** S. 191(1A)(1B) amended (17.12.1996) by S.I. 1996/2885, **art. 4(2)**

#### [<sup>F242</sup>191A] Execution of works by local housing authority by agreement

- (1) The local housing authority may by agreement with the person having control of any premises execute at his expense any works which he is required to execute in respect of the premises in pursuance of a repair notice served under section 189 or section 190.
- (2) For that purpose the authority shall have all such rights as that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises).]

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#### Textual Amendments

**F242** S. 191A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 5**

**192** ..... **F243**

#### Textual Amendments

**F243** S. 192 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(a), 194(4), **Sch. 9 Pt. I para. 6, Sch. 12 Pt. II**

### *Enforcement*

#### **193 Power of local housing authority to execute works.**

- (1) If a repair notice is not complied with the local housing authority may themselves do the work required to be done by the notice.
- [<sup>F244</sup>(2) For the purpose of this Part compliance with the notice means beginning and completing the works specified in the notice,—
- (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
  - (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
  - (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date on which the notice becomes operative and within such period (beginning on that twenty-first day) as is specified in the notice.
- (2A) If, before the expiry of the period which under subsection (2) is appropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards compliance with the notice, the authority may themselves do the work required to be done by the notice.]
- (3) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.
- [<sup>F245</sup>(4) If, after the local housing authority have given notice under section 194 of their intention to enter and do any works, the works are in fact carried out by the person having control of the dwelling-house [<sup>F246</sup>house in multiple occupation] or part of the building in question, any administrative and other expenses incurred by the authority with a view to doing the works themselves shall be treated for the purposes of Schedule 10 as expenses incurred by them under this section in carrying out works [<sup>F247</sup>in a case where the repair notice has not been complied with].]



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#### Textual Amendments

- F244** S. 193(2)(2A) substituted for s. 193(2) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 5\(1\)](#)
- F245** S. 193(4) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 5\(2\)](#)
- F246** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), [Sch. 9 Pt. I para. 7](#)
- F247** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), [Sch. 9 Pt. I para. 7](#)

### 194 Notice of authority’s intention to execute works.

- (1) Where the local housing authority are about to enter upon [<sup>F248</sup>any premises] under the provisions of section 193 for the purpose of doing any work, they [<sup>F248</sup>shall] give notice in writing of their intention to do so to the person having control of [<sup>F248</sup>the premises] and, if they think fit, to any owner of [<sup>F248</sup>the premises].
- (2) If at any time after the expiration of seven days from the service of the notice on him and whilst any workman or contractor employed by the local housing authority is carrying out works in [<sup>F249</sup>the premises]—
- (a) the person on whom the notice was served is in [<sup>F249</sup>the premises] for the purpose of carrying out any works, or
  - (b) any workman employed by him or by any contractor employed by him is in [<sup>F249</sup>the premises] for such purpose,
- the person on whom the notice was served shall be deemed for the purpose of section 198 (penalty for obstruction) to be obstructing the authority in the execution of this Part unless he shows that there was urgent necessity to carry out the works in order to obviate danger to occupants of [<sup>F249</sup>the premises].

#### Textual Amendments

- F248** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 6\(1\)](#)
- F249** Words substituted by [Housing Act 1988 \(c.50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 6\(2\)](#)

### 195 Power of court to order occupier or owner to permit things to be done.

- (1) If a person, after receiving notice of the intended action—
- (a) being the occupier of premises, prevents the owner or person having control of the premises, or his officers, servants or agents, from carrying into effect with respect to the premises any of the provisions of this Part, or
  - (b) being the occupier, owner or person having control of premises, prevents an officer, servant or agent of the local housing authority from so doing,
- a magistrates’ court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (2) A person who fails to comply with an order of the court under this section commits a summary offence and is liable on conviction to a fine not exceeding £20 in respect of each day during which the failure continues.

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## 196 Power of court to authorise owner to execute works on default of another owner.

- (1) If it appears to a magistrates' court, on the application of an owner of premises in respect of which a repair notice has been served, that owing to the default of another owner of the premises in executing works required to be executed, the interests of the applicant will be prejudiced, the court may make an order empowering the applicant forthwith to enter on the premises and execute the works within a period fixed by the order.
- (2) Where the court makes such an order, the court may, where it seems to the court just to do so, make a like order in favour of any other owner.
- (3) Before an order is made under this section, notice of the application shall be given to the local housing authority.

## 197 Powers of entry.

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving [<sup>F250</sup>seven days] notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination—
  - (a) where it appears to the authority that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, [<sup>F251</sup>or]
  - (b) where a repair notice has been served in respect of the premises, . . . <sup>F252</sup>
  - (c) . . . . . <sup>F252</sup>
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [<sup>F253</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

### Textual Amendments

**F250** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), [Sch. 9 Pt. I para. 8\(1\)\(a\)](#)

**F251** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), [Sch. 9 Pt. I para. 8\(1\)\(b\)](#)

**F252** Word; or and s. 197(1)(c) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(a), 194(4), [Sch. 9 Pt. I para. 8\(1\)\(c\)](#), [Sch. 12 Pt. II](#)

**F253** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), [Sch. 9 Pt. I para. 8\(2\)](#)

### Modifications etc. (not altering text)

**C88** [Ss. 197, 198](#) applied (17.12.1996) by [1996 c. 53, s. 84\(2\)](#); [S.I. 1996/2842, art. 3](#)

## 198 Penalty for obstruction.

- (1) It is a summary offence [<sup>F254</sup>intentionally] to obstruct an officer of the local housing authority or of the Secretary of State, or a person authorised in pursuance of this Part to enter premises, in the performance of anything which that officer, authority or person is required or authorised by this Part to do.

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- (2) A person who commits such an offence is liable on conviction to a fine not exceeding [<sup>F255</sup>level 3] on the standard scale.

**Textual Amendments**

**F254** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 9**

**F255** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 7**

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

**C89** [Ss. 197, 198](#) applied (17.12.1996) by [1996 c. 53, s. 84\(2\)](#); [S.I. 1996/2842, art. 3](#)

[<sup>F256</sup>**198A** **Penalty for failure to execute works.**

- (1) A person having control of premises to which a repair notice relates who intentionally fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.
- (3) Section 193(2) shall have effect to determine whether a person has failed to comply with a notice and what is the period for completion of any works.
- (4) The provisions of this section are without prejudice to the exercise by the local housing authority of the powers conferred by the preceding provisions of this Part.]

**Textual Amendments**

**F256** [S. 198A](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 8**

*Provisions for protection of owner and others*

**199**— ..... <sup>F257</sup>  
**201.**

**Textual Amendments**

**F257** [Ss. 199 - 201](#) repealed with saving by [Housing Act 1988 \(c. 50, SIF 61\)](#), ss. 130(1)(3), 140(2), **Sch. 15 para. 9, Sch. 18**

**202** **Owner not in receipt of rents, &c. to receive notice of proceedings.**

If an owner of premises who is not the person in receipt of the rents and profits gives notice to the local housing authority of his interest in the premises, the authority shall give him notice of any proceedings taken by them in pursuance of this Part.

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**203 Saving for rights arising from breach of covenant, &c.**

- (1) Nothing in this Part prejudices or interferes with the rights or remedies of an owner for breach of any covenant or contract entered into by a lessee in reference to premises in respect of which a repair notice is served.
- (2) If an owner is obliged to take possession of premises in order to comply with a repair notice the taking possession does not affect his right to avail himself of any such breach which occurred before he took possession.
- (3) No action taken under this Part prejudices or affects any remedy available to the tenant of [<sup>F258</sup>any premises] against his landlord, either at common law or otherwise.

**Textual Amendments**

**F258** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), [Sch. 15 para. 10](#)

**204 Effect of approved proposals for re-development.**

Where the local housing authority have under section 308 (owner’s re-development proposals) approved proposals for the re-development of land, no action shall be taken in relation to the land under this Part if and so long as the re-development is being proceeded with in accordance with the proposals and within the time limits specified by the authority, subject to any variation or extension approved by the authority.

*Supplementary provisions*

**205** ..... <sup>F259</sup>

**Textual Amendments**

**F259** S. 205 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(a), 194(4), [Sch. 9 Pt. I para. 10](#), [Sch. 12 Pt. II](#)

**206** ..... <sup>F260</sup>

**Textual Amendments**

**F260** S. 206 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(a), 194(4), [Sch. 9 Pt. I para. 11](#), [Sch. 12 Pt. II](#)

**207 Minor definitions.**

In this Part—

[<sup>F261</sup>“dwelling-house” and “flat”]<sup>F262</sup>other than in the expression “flat in multiple occupation”] shall be construed in accordance with subsection (2) and “the building”, in relation to a flat, means the building containing the flat]

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[<sup>F263</sup>“house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI]

[<sup>F264</sup>“occupying tenant”, in relation to a dwelling-house, means a person (other than an owner-occupier) who—

- (a) occupies or is entitled to occupy the dwelling-house as a lessee; or
- (b) is a statutory tenant of the dwelling-house; or
- (c) occupies the dwelling-house as a residence under a restricted contract; or
- (d) is a protected occupier, within the meaning of the Rent (Agriculture) Act 1976; or
- (e) is a licensee under an assured agricultural occupancy;]

“owner” in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years;

[<sup>F265</sup>“owner-occupier”, in relation to a dwelling-house, means the person who, as owner or lessee under a long tenancy, within the meaning of Part I of the Leasehold Reform Act 1967, occupies or is entitled to occupy the dwelling-house;

“person managing” has the same meaning as in Part XI]

“person having control”, [<sup>F266</sup>[<sup>F267</sup>subject to sections 189(1B), 190(1C) and 191],—

- (a) in relation to a dwelling-house][<sup>F268</sup>or house in multiple occupation], means the person who receives the rack-rent of the premises (that is to say, a rent which is not less than 2/3rds of the full net annual value of the premises), whether on his own account or as agent or trustee for another person, or who would so receive it if the [<sup>F269</sup>premises] were let at such a rack-rent [<sup>F270</sup>and
- (b) in relation to a part of a building to which relates a repair notice served under subsection (1A) of section 189 or section 190, means a person who is an owner in relation to that part of the building (or the building as a whole) and who, in the opinion of the authority by whom the notice is served, ought to execute the works specified in the notice].

[<sup>F271</sup>“premises” includes a dwelling-house [<sup>F272</sup>“house in multiple occupation”] or part of a building and, in relation to any premises, any reference to a person having control shall be construed accordingly]

[<sup>F273</sup>(2) For the purposes of this Part a “dwelling-house”][<sup>F274</sup>or house in multiple occupation] includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.]

#### Textual Amendments

**F261** Definition substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 12(1)(a)**

**F262** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 12(1)**

**F263** Definition inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 12(1)**

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- F264** Definition substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(2)**
- F265** Definitions inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(3)**
- F266** Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 12(1)(b)**
- F267** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(4)**
- F268** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(4)**
- F269** Word substituted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1), **Sch. 5 Pt. I para. 10(2)(9)**
- F270** Word “and” and para. (b) added by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 12(1)(c)**
- F271** Definition inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 12(1)(d)**
- F272** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(5)**
- F273** S. 207(2) inserted by Housing Act 1988 (c. 50, SIF 61), s. 130(1)(3), **Sch. 15 para. 12(2)**
- F274** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(a), **Sch. 9 Pt. I para. 12(6)**

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

- C90** S. 207 applied (17.12.1996) by 1996 c. 53, s. 82(1)(a)(2); S.I. 1996/2842, **art. 3**

**208 Index of defined expressions: Part VI.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

district (of a local housing authority)	section 2(1)
[ <sup>F275</sup> dwelling-house]	[ <sup>F275</sup> sections 205 and 207]
fit for human habitation	section 604
[ <sup>F275</sup> flat]	[ <sup>F275</sup> section 207]
[ <sup>F275</sup> house in multiple occupation (and flat in multiple occupation)]	[ <sup>F275</sup> section 345]
<sup>F276</sup>	<sup>F276</sup>
lease, lessee and lessor	section 621
local housing authority	section 1, 2(2)
occupying tenant	[ <sup>F277</sup> section 207]
owner	section 207
[ <sup>F275</sup> owner-occupier]	[ <sup>F275</sup> section 207]
person having control	section 207
[ <sup>F275</sup> person managing]	[ <sup>F275</sup> section 398]
[ <sup>F275</sup> premises]	[ <sup>F275</sup> section 207]

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<p>repair notice</p> <p>[<sup>F275</sup>restricted contract]</p> <p>standard scale (in reference to the maximum fine on summary conviction)</p> <p>[<sup>F275</sup>statutory tenant]</p> <p>unfit for human habitation</p>	<p>sections 189 and 190</p> <p>[<sup>F275</sup>section 622]</p> <p>section 622</p> <p>[<sup>F275</sup>section 622]</p> <p>section 604</p>
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**Textual Amendments**

- F275** Entries inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I para. 13(c)**
- F276** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(a), 194(4), [Sch. 9 Pt. I para. 13\(a\)](#), **Sch. 12 Pt. II**
- F277** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(a), **Sch. 9 Pt. I Para. 13(b)**

**PART VII**

**209**— ..... <sup>F278</sup>  
**238.**

**Textual Amendments**

- F278** Ss. 209–238 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(2), 194(4), [Sch. 12 Pt. II](#)

**PART VIII**

**AREA IMPROVEMENT**

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

- C91** [Pt. VIII](#) (ss. 239–263): by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 98(1)** it is provided that the provisions of Part VII of that Act shall have effect in place of Part VIII of this Act

*Housing action areas*

**239 Declaration of housing action area.**

- (1) Where a report with respect to an area within their district consisting primarily of housing accommodation is submitted to the local housing authority by a person appearing to the authority to be suitably qualified (who may be an officer of the

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authority), and the authority, upon consideration of the report and of any other information in their possession, are satisfied, having regard to—

- (a) the physical state of the housing accommodation in the area as a whole, and
- (b) social conditions in the area,

that the requirement mentioned in subsection (2) is fulfilled with respect to the area, they may cause the area to be defined on a map and by resolution declare it to be a housing action area.

- (2) The requirement is that the living conditions in the area are unsatisfactory and can most effectively be dealt with within a period of five years so as to secure—
  - (a) the improvement of the housing accommodation in the area as a whole,
  - (b) the well-being of the persons for the time being resident in the area, and
  - (c) the proper and effective management and use of that accommodation,
 by declaring the area to be a housing action area.

- (3) In considering whether to take action under this section the local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State, either generally or with respect to a particular authority or description of authority or in any particular case, with regard to the identification of areas suitable to be declared housing action areas.

- (4) An area which is declared to be a housing action area shall be such an area for the period of five years . . . <sup>F279</sup>, subject to—
  - (a) section 241(2)(a) (power of Secretary of State to overrule declaration),
  - (b) section 250(1)(b) (power of local housing authority to terminate housing action area), and
  - (c) section 251 (extension of duration of housing action area).

- (5) A resolution declaring an area to be a housing action area is a local land charge.

#### Textual Amendments

**F279** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(a)

#### 240 Steps to be taken after declaration of housing action area.

- (1) As soon as may be after . . . <sup>F280</sup> declaring an area to be a housing action area the local housing authority shall take the following steps.
- (2) They shall publish in two more more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
  - (a) identifying the area, and
  - (b) naming a place where a copy of the resolution, a map on which the area is defined and of the report referred to in section 239 may be inspected at all reasonable times.
- (3) They shall take such further steps as appear to them best designed to secure—
  - (a) that the resolution and the obligations imposed by section 247 (duty to notify local housing authority of changes of ownership or occupation of land) are brought to the attention of persons residing or owning property in the area, and



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- (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the area or concerning the obligations imposed by that section.
- (4) They shall send to the Secretary of State—
- (a) a copy of the resolution, the map and a copy of the report mentioned in section 239(1),
  - (b) a statement of the numbers of dwellings, houses in multiple occupation and hostels in the area, and
  - (c) a statement, containing such information as the Secretary of State may for the time being require, either generally or with respect to a particular authority or description of authority or in any particular case, showing the basis on which the authority satisfied themselves, having regard to the matters mentioned in section 239(1) and any relevant guidance under section 239(3), that the area was suitable to be a housing action area.
- (5) They shall also send to the Secretary of State a statement of their proposals, whether general or specific, for the participation of registered housing associations in dealing with living conditions in the area.

#### Textual Amendments

**F280** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(b)

### 241 Functions of Secretary of State with respect to declaration of housing action area.

- (1) When a local housing authority have declared an area to be a housing action area and have sent to the Secretary of State the documents referred to in section 240(4), he shall send them a written acknowledgement of the receipt of those documents.
- (2) If it appears to the Secretary of State appropriate to do so, he may, at any time within the period of 28 days beginning with the day on which he sent the acknowledgement, notify the authority—
  - (a) that the area declared by them to be a housing action area is no longer to be such an area, or
  - (b) that land defined on a map accompanying the notification is to be excluded from the area,or notify them that he requires more time to consider their declaration of the area as a housing action area.
- (3) Where the Secretary of State notifies an authority that he requires more time, he may direct the authority to send him such further information and documents as are specified in the direction; and on completion of his consideration of the matter, he shall either—
  - (a) notify the authority as mentioned in subsection (2)(a) or (b), or
  - (b) notify them that he proposes to take no further action with respect to their declaration.
- (4) Where the Secretary of State notifies the authority as mentioned in subsection (2)(a) or (b) (whether under that subsection or under subsection (3)), the area concerned shall cease to be a housing action area or, as the case may be, the land concerned shall be

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excluded from the housing action area, with effect from the date on which the authority is so notified.

- (5) The authority shall, as soon as may be after the receipt of the notification, publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice—
- (a) stating the effect of the Secretary of State’s notification, and
  - (b) naming a place where a copy of the notification and, in the case of a notification excluding land from the area, a copy of the amended map of the housing action area, may be inspected at all reasonable times,
- and take such further steps as may appear to them best designed to secure that the effect of the notification is brought to the attention of persons residing or owning property in the area declared by them to be a housing action area.

## 242 Incorporation into housing action area of land comprised in general improvement area.

- (1) If a local housing authority propose to declare as a housing action area an area which consists of or includes land which is comprised in a general improvement area, they shall indicate on the map referred to in section 239(1) the land which is so comprised.
- (2) With effect from the date on which [<sup>F281</sup>the area is declared] to be a housing action area, the land so indicated shall be deemed to have been excluded from the general improvement area or, as the case may be, to have ceased to be such an area by virtue of a resolution under section 258 passed on that date, but subject to the following provisions.
- (3) If the Secretary of State notifies the local housing authority in accordance with section 241 that the area declared by them to be a housing action area is no longer to be such an area, subsection (2) shall be treated as never having applied in relation to land in that area.
- (4) If the Secretary of State notifies the local housing authority in accordance with section 241 that any land within the area declared by the authority to be a housing action area is to be excluded from the housing action area, subsection (2) shall be treated as never having applied in relation to land so excluded.

### Textual Amendments

**F281** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(c)

## 243 General powers of local housing authority.

- (1) Where a local housing authority have declared an area to be a housing action area, they may, for the purpose of securing or assisting in securing all or any of the objectives specified in section 239(2)(a) to (c) exercise the following powers.
- (2) They may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, land in the area on which there are premises consisting of or including housing accommodation.
- (3) They may undertake on land so acquired all or any of the following activities—

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- (a) the provision of housing accommodation (by the construction, conversion or improvement of buildings, or otherwise);
  - (b) the carrying out of works for the improvement or repair of housing accommodation (including works to the exterior, or on land within the curtilage, of buildings containing housing accommodation);
  - (c) the management of housing accommodation;
  - (d) the provision of furniture, fittings or services in or in relation to housing accommodation.
- (4) If after—
- (a) the authority have entered into a contract for the acquisition of land under subsection (2), or
  - (b) a compulsory purchase order authorising the acquisition of land under that subsection has been confirmed,
- the housing action area concerned ceases to be such an area or the land is excluded from the area, the provisions of that subsection continue to apply as if the land continued to be in a housing action area.

#### **244 Environmental works.**

- (1) For the purpose of improving the amenities in a housing action area, the local housing authority may—
- (a) carry out environmental works on land belonging to them, and
  - (b) give assistance towards the carrying out of environmental works by others.
- (2) Assistance under subsection (1)(b) may be given to any person having an interest in the land in question and may consist of all or any of the following—
- (a) a grant in respect of expenditure which appears to the authority to have been properly incurred in carrying out the works;
  - (b) the provision of materials for the carrying out of the works;
  - (c) the execution of the works, by agreement with the person concerned, either at his expense or at the authority's expense or partly at his expense and partly at the authority's expense.
- (3) No such assistance shall be given towards works
- [<sup>F282</sup>(a)] in respect of which an application for an improvement grant, intermediate grant, special grant [<sup>F283</sup>, repairs grant or common parts grant [<sup>F282</sup> under Part XV]] has been approved [<sup>F284</sup> or
  - (b) which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, in which the person concerned is eligible to participate.
- (3A) In subsection (3)—
- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
  - (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]
- (4) Where the assistance takes the form of a grant, it may be paid—
- (a) after completion of the works, or

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(b) in part by instalments as the works progress and the balance after completion of the works;

but where part is paid by instalments the aggregate amount of the instalments paid at any time whilst the works are in progress shall not exceed one-half of the cost of the works executed up to that time.

(5) In this section “environmental works” means any works other than works to the interior of housing accommodation.

#### Textual Amendments

**F282** “(a)” and words “under Part XV” inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 68](#)

**F283** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 15, Sch. 3 Pt. II para. 17](#)

**F284** Word “or” and s. 244(3)(b)(3A) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 68](#)

#### 245 Contributions by Secretary of State.

(1) The Secretary of State may pay contributions to a local housing authority towards such expenditure incurred by them under section 244 (environmental works) as he may determine.

[<sup>F285</sup>(2) In the case of any expenditure, the contribution—

- (a) shall be equal to one-half of the amount of the expenditure; and
- (b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.]

(3) The aggregate of the expenditure towards which such contributions may be made with respect to a housing action area shall not exceed the sum arrived at by multiplying—

- (a) [<sup>F286</sup>£600], by
- (b) the number of dwellings, houses in multiple occupation and hostels stated by the local housing authority under section 240(4)(b) to be in the areaX;

but two adjoining housing action areas may for this purpose be treated as one.

(4) The Secretary of State may, with the consent of the Treasury—

- (a) by order substitute in subsections (2) and (3) another fraction for one-half and another amount for £400
- (b) direct that those subsections shall have effect, in the case of a housing action area specified in the direction or of a description so specified, with the substitution of a higher fraction or a greater amount than that for the time being specified in the subsection.

(5) An order under subsection (4)(a)—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

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### Textual Amendments

**F285** S. 245(2) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 98(5)

**F286** “£600” substituted by [S.I. 1988/1258](#), art. 2

## 246 Duty to publish information.

Where a local housing authority have declared an area to be a housing action area, they shall bring to the attention of persons residing or owning property in the area—

- (a) the action they propose to take in relation to the housing action area, and
- (b) the assistance available for the improvement of the housing accommodation in the area,

by publishing from time to time, in such manner as appears to them appropriate, such information as is in their opinion best designed to further the purpose for which the area was declared a housing action area.

## 247 Changes of ownership or occupation of land to be notified to local housing authority.

- (1) This section—
    - (a) applies to land in a housing action area which consists of or includes housing accommodation, and
    - (b) comes into operation in relation to a housing action area at the end of the period of four weeks beginning with the date on which the housing action area is declared.
  - (2) Where notice to quit is served in respect of land to which this section applies on a tenant who occupies as a dwelling the whole or part of the land, the landlord by whom, or on whose behalf, the notice was served shall, within the period of seven days beginning with the date on which the notice was served, notify the local housing authority that the notice has been served.
  - (3) Where a tenancy of land to which this section applies is about to expire by effluxion of time, the person who is the landlord under the tenancy shall, not less than four weeks before the tenancy does so expire, notify the local housing authority that the tenancy is about to expire.
  - (4) A person who carries out a disposal of land to which this section applies, other than a disposal excepted by subsection (5), shall notify the local housing authority, not less than four weeks or more than six months before the date of the disposal, that the disposal is about to take place.
  - (5) Subsection (4) does not apply to—
    - (a) a disposal by a person who, throughout the period of six months ending on the date of the disposal has been continuously in exclusive occupation (with or without members of his household) of the land to which the disposal relates;
    - (b) a disposal to which the local housing authority are a party;
    - (c) the grant of a protected tenancy or protected occupancy or the entering into of a restricted contract;
- [<sup>F287</sup>(ca) the grant of an assured tenancy or assured agricultural occupancy, or of a tenancy which is not such a tenancy or occupancy by reason only of paragraph

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- 10 of Schedule 1 to the Housing Act 1988 (resident landlords) or of that paragraph and the fact that the accommodation which is let is not let as a separate dwelling]
- (d) the grant or assignment of a lease (of land or an interest in land) for a term which expires within the period of five years and three months beginning on the date of the grant of the lease, where neither the lease nor any other instrument or contract confers on the lessor or the lessee an option (however expressed) to renew or extend the term so that the new or extended term would continue beyond the end of that period;
  - (e) the grant of an estate or interest by way of security for a loan;
  - (f) a conveyance of an estate or interest which gives effect to a contract to convey that estate or interest which was duly notified to the local housing authority in accordance with subsection (4).
- (6) When the local housing authority receive notification from a person under this section with respect to any land they shall—
- (a) send him, as soon as practicable, written acknowledgement of the receipt of the notification, stating the date on which it was received, and
  - (b) inform him, within the period of four weeks beginning with that date, of what action, if any, they propose to take with respect to that land as a result of the notification.

#### Textual Amendments

**F287** S. 247(5)(ca) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 45](#)

#### 248 Form and contents of notification under s. 247.

- (1) A notification under section 247 shall be in writing and contain the information required by this section.
- (2) Every notification shall contain—
  - (a) the name and address of the person by whom it is given,
  - (b) the address of, and any further information necessary to identify, the land to which it relates, and
  - (c) the estate or interest in that land which the person by whom it is given has at the time it is given.
- (3) The reference in subsection (2)(a) to a person's address is to his place of abode or place of business or, in the case of a company, to its registered office.
- (4) To the extent that it is capable of being given by reference to a plan accompanying the notification, the information required by subsection (2)(b) may be so given.
- (5) A notification required by section 247(2) or (3) (notice to quit or impending expiry of tenancy) shall specify—
  - (a) whether the tenancy concerned is periodic or for a term certain,
  - (b) the length of the period or term, and
  - (c) the date on which the tenancy will come to an end (by virtue of the service of the notice to quit or by effluxion of time);

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and in the case of a notification required by section 247(2) the landlord may also, if he considers it appropriate, give his reason for serving notice to quit.

- (6) A notification required by section 247(4) (disposal of land) shall specify—
- (a) whether at the time the notification is given the person giving it intends to retain an estate or interest in the land, and
  - (b) if he does, the nature of that estate or interest and the land in which he intends that it should subsist.

#### **249 Penalty for failure to notify, &c.**

- (1) A person who—
- (a) fails without reasonable excuse to comply with an obligation imposed on him by section 247(2) or (3), or
  - (b) without reasonable excuse carries out a disposal of land without having complied with the obligation imposed on him by section 247(4), or
  - (c) in purporting to comply with an obligation imposed on him by section 247 knowingly or recklessly furnishes a notification which is false in a material particular, or
  - (d) knowingly or recklessly omits from any such notification any information required to be contained in it by virtue of any provision of section 248,
- commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.
- (2) The commission by a person of an offence under subsection (1) does not affect—
- (a) in the case of a notification required by section 247(2) or (3) (notice to quit or expiry of tenancy), the date on which the tenancy expires;
  - (b) in the case of a notification required by section 247(4) (disposal of land), the validity of the disposal.

#### **250 Exclusion of land from, or termination of, housing action area.**

- (1) The local housing authority may by resolution—
- (a) exclude land from a housing action area, or
  - (b) declare that an area shall cease to be a housing action area . . . <sup>F288</sup>;
- and as soon as may be after passing such a resolution the authority shall take the following steps.
- (2) They shall send a copy of the resolution to the Secretary of State.
- (3) They shall publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
- (a) in the case of a resolution excluding land from a housing action area, identifying the housing action area concerned and the land excluded from it.
  - (b) in the case of a resolution declaring that an area is no longer to be a housing action area, naming a place at which a copy of the resolution may be inspected at all reasonable times.
- (4) They shall take such further steps as may appear to the authority best designed to secure that the resolution is brought to the attention of persons residing or owning property in the housing action area.

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### Textual Amendments

**F288** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(d)

## 251 Extension of duration of housing action area.

- (1) The local housing authority may by resolution extend the duration of a housing action area by a period of two years, and may do so more than once.
- (2) Written notification of the passing of the resolution must be given by the authority to the Secretary of State at least three months before the date on which the housing action area would otherwise cease to exist.
- (3) On receipt of a notification under subsection (2) the Secretary of State shall send a written acknowledgement to the authority.
- (4) If it appears to the Secretary of State appropriate to do so, he may, at any time within the period of 28 days beginning with the day on which he sent the acknowledgement, notify the authority—
  - (a) that the duration of the housing action area is not to be extended in accordance with their resolution, or
  - (b) that he requires more time to consider their extension of the duration of the housing action area.
- (5) Where the Secretary of State notifies an authority that he requires more time, he shall on completion of his consideration of the matter notify the authority—
  - (a) that the duration of the housing action area is not to be extended in accordance with their resolution,
  - (b) where the extension has already begun to run, that the area is to cease to be a housing action [<sup>F289</sup>area] on such date as may be specified in the notification, or
  - (c) that he proposes to take no further action with respect to their resolution.
- (6) As soon as may be after passing a resolution or receiving a notification from the Secretary of State under this Section (other than a notification that he proposes to take no further action), the local housing authority shall—
  - (a) publish in two or more newspapers circulating in the locality (of which at least one shall, if practicable, be a local newspaper) a notice of the resolution or, as the case may be stating the effect of the notification, naming a place where a copy of the resolution or notification may be inspected at all reasonable times, and
  - (b) take such further steps as appear to the authority best designed to secure that the resolution or notification is brought to the attention of persons residing or owning property in the housing action areas concerned.

### Textual Amendments

**F289** Words inserted (*retrospectively* 1.4.86) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. 1 para. 10\(3\)\(9\)](#)



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## **252 Meaning of “housing accommodation” and related expressions.**

In the provisions of this Part relating to housing action areas—

- (a) “housing accommodation” means dwellings, houses in multiple occupation and hostels;
- (b) “dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part; and
- (c) “house in multiple occupation” means a house which is occupied by persons who do not form a single household, exclusive of any part the house which is occupied as a separate dwelling by persons who do form a single household.

### *General improvement areas*

## **253 Declaration of general improvement area.**

- (1) Where a report with respect to a predominantly residential area within their district is submitted to the local housing authority by a person appearing to the authority to be suitably qualified (who may be an officer of the authority), and it appears to the authority, upon consideration of the report and of any other information in their possession—
  - (a) that living conditions in the area can most appropriately be improved by the improvement of the amenities of the area or of dwellings in the area, or both, and
  - (b) that such an improvement may be effected or assisted by the exercise of their powers under the provisions of this Part relating to general improvement areas,the authority may cause the area to be defined on a map and by resolution declare it to be a general improvement area.
- (2) A general improvement area may not be defined so as to include, but may be defined so as to surround, land which is comprised in a housing action area.
- (3) A general improvement area may not (unless the land has been cleared of buildings) be so defined as to include, but may be so defined as to surround—
  - (a) land comprised in a clearance area,
  - (b) land purchased by the local housing authority under section 290(2) (land surrounded by or adjoining clearance area), or
  - (c) land included in a clearance area under section 293(1) (local housing authority’s own property);

and where the Secretary of State on confirming a compulsory purchase order under Schedule 22 (acquisition of land for clearance) modifies the order by excluding from a clearance area land adjoining a general improvement area, the land shall, unless the Secretary of State otherwise directs, be taken to be included in the general improvement area.

## **254 Steps to be taken after declaration.**

- (1) As soon as may be after passing a resolution declaring an area to be a general improvement area the local housing authority shall take the following steps.

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- (2) They shall publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) a notice of the resolution—
  - (a) identifying the area, and
  - (b) naming the place where a copy of the resolution, of the map on which the area is defined and of the report mentioned in section 253(1) may be inspected at all reasonable times.
- (3) They shall take such further steps as appear to them best designed to secure—
  - (a) that the resolution is brought to the attention of persons residing or owning property in the area, and
  - (b) that those persons are informed of the name and address of the person to whom enquiries and representations should be addressed concerning action to be taken in the exercise of the authority's powers under the provisions of this Part relating to general improvement areas.
- (4) They shall send to the Secretary of State a copy of the resolution, of the report and of the map and a statement of the number of dwellings in the area.

## 255 General powers of local housing authority.

- (1) Where a local housing authority have declared an area to be a general improvement area, they may, for the purpose of effecting or assisting the improvement of the amenities of the area, or of the dwellings in the area, or both—
  - (a) carry out works on land owned by them and assist (by grants, loans or otherwise) in the carrying out of works on land not owned by them,
  - (b) acquire any land by agreement, and
  - (c) let or otherwise dispose of land for the time being owned by them;

and may be authorised by the Secretary of State to acquire compulsorily land within the general improvement area or adjoining it.

- (2) The authority may not under this section—
  - (a) improve a dwelling which has not been acquired or provided by them in pursuance of this section, or
  - (b) make a grant towards the cost of works in a case where an improvement grant, intermediate grant, special grant [<sup>F290</sup>or repairs grant][<sup>F290</sup>, repairs grant or common parts grant] might be made under Part XV.

[<sup>F291</sup>(3) In subsection (2)(b)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
- (b) the reference to a common parts grant under Part XV includes a reference to a common parts grant under the said Part VIII.]

### Textual Amendments

**F290** Words “, repairs grant or common parts grant” substituted (*prosp.*) for words “or repairs grant” by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#) s. 15, Sch. 3 Pt. II para. 18

**F291** S. 255(3) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 69**

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**256 Power to apply for orders extinguishing right to use vehicles on highway.**

- (1) A local housing authority who have declared a general improvement area may exercise the powers of a local planning authority under [F292sections 249 and 250 of the Town and Country Planning Act 1990] (extinguishment of right to use vehicles on certain highways) with respect to a highway in that area notwithstanding that they are not the local planning authority, but subject to the following provisions.
- (2) The local housing authority shall not make an application under [F293subsection (2) or (6) of section 249] (application to Secretary of State to make or revoke order extinguishing right to use vehicles) except with the consent of the local planning authority.
- (3) If the local housing authority are not also the highway authority, any such application made by them shall in the first place be sent to the highway authority who shall transmit it to the Secretary of State.
- (4) Where an order under [F294subsection (2) of section 249] (order extinguishing right to use vehicles) has been made on an application made by a local housing authority by virtue of this section—
  - (a) any compensation under [F294subsection (1) of section 250] (compensation for loss of access to highway) is payable by them instead of by the local planning authority, and
  - (b) ..... F295

**Textual Amendments**

- F292** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 71\(1\)\(a\)](#)
- F293** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 71\(1\)\(b\)](#)
- F294** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 71\(1\)\(c\)](#)
- F295** [S. 256\(4\)\(b\)](#) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. 1](#)

**257 Duty to publish information.**

Where a local housing authority [F296have passed a resolution declaring] an area to be a general improvement area, they shall bring to the attention of persons residing in the area or owning property in it—

- (a) the action they propose to take in the exercise of their powers under the provisions of this Part relating to general improvement areas, and
- (b) the [F296assistance which is or will be available] for the improvement of the amenities of the area or of the dwellings in the area,

by publishing from time to time, in such manner as appears to them appropriate, such information as is in their opinion best designed to further the objects of those provisions.

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### Textual Amendments

**F296** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(e)

## 258 Exclusion of land from, or termination of, general improvement area.

- (1) The local housing authority may by resolution—
  - (a) exclude land from a general improvement area, or
  - (b) declare [<sup>F297</sup>that an area shall cease to be] a general improvement area.
- (2) The resolution does not affect the continued operation of the provisions of this Part relating to general improvement areas, or any other provision so relating, in relation to works begun before [<sup>F298</sup>the date on which the exclusion or cessation takes effect]; but [<sup>F298</sup>the resolution] does apply with respect to works which have not been begun before that date, notwithstanding that expenditure in respect of the works has been approved before that date.

### Textual Amendments

**F297** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(f)

**F298** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(2)(g)

## 259 Contributions by Secretary of State.

- (1) The Secretary of State may pay contributions to a local housing authority towards such expenditure incurred by them under the provisions of this Part relating to general improvement areas as he may determine.
- [<sup>F299</sup>(2) In the case of any expenditure, the contribution—
  - (a) shall be equal to one-half of the amount of the expenditure; and
  - (b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.]
- (3) The aggregate of the expenditure towards which such contributions may be made with respect to a general improvement area shall not exceed the sum arrived at by multiplying—
  - (a) [<sup>F300</sup>£600], by
  - (b) the number of dwellings stated by the local housing authority under section 254(4) to be in the areaX;
 but two adjoining general improvement areas may for this purpose be treated as one.
- (4) The Secretary of State may, with the consent of the Treasury—
  - (a) by order substitute in subsections (2) and (3) another fraction for one-half and another amount for £400;
  - (b) direct that those subsections shall have effect, in the case of a general improvement area specified in the direction or of a description so specified, with the substitution of a higher fraction or a greater amount than that for the time being specified in the subsection.
- (5) An order under subsection (4)(a)—

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- (a) may make different provision for different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) For the purposes of this section—
- (a) the cost of acquiring an estate or interest in a case where periodical payments fall to be made in connection with the acquisition shall be taken to include such sum as the Secretary of State may determine to be the capital equivalent of those payments; and
  - (b) the cost of works shall be taken to include the cost of the employment in connection with the works of an architect, engineer, surveyor, land-agent or other person in an advisory or supervisory capacity.
- (7) In the case of contributions payable in respect of—
- (a) works to which the <sup>M57</sup>Housing Act 1971 applied (works in certain areas completed before 23rd June 1974), or
  - (b) expenditure on providing land treated as expenditure on such works by virtue of section 2(4) of that Act,
- subsection (2)(b) above has effect with the substitution of “75 per cent.” for “one-half”.

#### Textual Amendments

**F299** S. 259(2) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 98(6)

**F300** “£600” substituted by [S.I. 1988/1258](#), art. 2

#### Marginal Citations

**M57** 1971 c. 76.

### <sup>F301</sup> *Supplementary provisions*

#### Textual Amendments

**F301** Ss. 259A, 259B inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(1)

## **259A Effect of resolutions relating to housing action area or general improvement area.**

- (1) A resolution of a local housing authority passed after the commencement of this section—
- (a) declaring an area to be a housing action area, excluding land from a housing action area or declaring that an area shall cease to be a housing action area, or
  - (b) declaring an area to be a general improvement area, excluding land from a general improvement area or declaring that an area shall cease to be a general improvement area,
- has effect, subject to subsection (2), from the day on which the resolution is passed.
- (2) A resolution declaring an area to be a general improvement area may be expressed to have effect from a future date, not later than four weeks after the passing of the

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resolution, on which the whole or part of that area will cease to be, or be included in, a housing action area.]

**[<sup>F302</sup>259B Effect of certain resolutions passed before commencement of s. 259A.**

- (1) Where before the commencement of section 259A a local housing authority passed a resolution of any of the descriptions mentioned in the section expressed to have effect from a date after that on which it was passed—
  - (a) anything done before the commencement of this section in reliance on the view that the resolution was invalid shall have effect as if the resolution had not been passed, but
- (3) Where the resolution declared a housing action area or general improvement area and, before the commencement of this section, the local housing authority passed a further resolution making the like declaration in relation to the whole or part of the area to which the first resolution then related—
  - (a) both resolutions are effective, notwithstanding that they relate in whole or in part to the same area;
  - (b) the area covered by both resolutions is a housing action area or general improvement area by virtue of the joint effect of the two resolutions, and in the case of a housing action area shall continue to be such an area (subject to the provisions of this Part) until the end of the period of five years beginning with the date on which the second resolution was passed;
  - (c) it is immaterial whether steps taken before the commencement of this section were taken in reliance on the first resolution or the second, but steps taken in reliance on the first shall not be proceeded with to the extent that they have been superseded by, or are inconsistent with, steps taken in reliance on the second; and
  - (d) the areas declared by the two resolutions may be treated as one for the purposes of section 245(3) or 259(3) (limit on aggregate expenditure qualifying for contributions by Secretary of State).
- (4) The provisions of subsection (3) do not affect the powers of the Secretary of State under section 241(2)(a) and (b) (power to overrule declaration of housing action area or exclude land from area) and, so far as they relate to the duration of a housing action area, have effect subject to section 241(4) (effect of Secretary of State’s decision in such a case).]

**Textual Amendments**

**F302** Ss. 259A, 259B inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 21(1)

**260 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving 24 hours’ notice of his intention to the occupier, and to the owner if the owner is known, enter premises—
  - (a) for the purposes of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised; or

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- (b) for the purpose of survey or valuation where the authority are authorised by this Part to purchase the premises compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised.

## **261 Penalty for obstruction.**

- (1) It is a summary offence to obstruct an officer of the local housing authority, or of the Secretary of State, or a person authorised to enter premises in pursuance of this Part, in the performance of anything which that officer, authority or person is by this Part required or authorised to do.
- (2) A person who commits such an offence is liable on conviction to a fine not exceeding level 2 on the standard scale.

## **262 Minor definitions.**

In this Part—

“disposal”, in relation to land, includes a conveyance of, or contract to convey, an estate or interest not previously in existence;

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

## **263 Index of defined expressions: Part VIII**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

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[ <sup>F303</sup> assured agricultural occupancy]	[ <sup>F303</sup> section 622]
[ <sup>F303</sup> assured tenancy]	[ <sup>F303</sup> section 622]
clearance area	section 289
disposal (of land)	section 262
district (of a local housing authority)	section 2(1)
dwelling (in provisions relating to housing action areas)	section 252
general improvement area	section 253
hostel	section 622
house in multiple occupation	section 252
housing accommodation	section 252
housing action area	section 239

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lease, lessee and lessor	section 621
local housing authority	section 1, 2(2)
owner (of premises)	section 262
protected occupancy	section 622
protected tenancy	section 622
restricted contact	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
tenancy and tenant	section 621

#### Textual Amendments

**F303** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 46**

## PART IX

### SLUM CLEARANCE

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

- C92** Pt. IX (ss. 264–323) extended by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(2), **Sch. 4 para. 11**
- C93** Pt. IX (ss. 264–323): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 65(2)(a)(4)**
- C94** Pt. IX (ss. 264–323) extended by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(1), 193(1), **Sch. 25 para. 1(2)(xxxii)**, **Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58**

*Demolition or closing of unfit premises beyond repair at reasonable cost*

#### [<sup>F304</sup>264 Power to make closing order.

- (1) Where the local housing authority are satisfied that a dwelling-house or house in multiple occupation is unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the dwelling-house or house in multiple occupation.
- (2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the whole or part of the building.
- (3) In deciding for the purposes of subsection (2)—



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- (a) whether to make a closing order with respect to the whole or part of the building; or
  - (b) in respect of which part of the building to make a closing order;
- the authority shall have regard to such guidance as may from time to time be given by the Secretary of State under section 604A.
- (4) This section has effect subject to section 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed).]

**Textual Amendments**

**F304** Ss. 264, 265 substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 14](#)

[<sup>F305</sup> **265 Power to make demolition order.**

- (1) Where the local housing authority are satisfied that—
  - (a) a dwelling-house which is not a flat, or
  - (b) a house in multiple occupation which is not a flat in multiple occupation,is unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a demolition order with respect to the dwelling-house or house concerned.
- (2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a demolition order with respect to the building.
- (3) This section has effect subject to sections 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed) and 304(1) (listed buildings and buildings protected by notice pending listing).]

**Textual Amendments**

**F305** Ss. 264, 265 substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 14](#)

**266** ..... <sup>F306</sup>

**Textual Amendments**

**F306** S. 266 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 15](#), [Sch. 12 Pt. II](#)

**267 Content of demolition and closing orders.**

- (1) A demolition order is an order requiring that the premises—

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- (a) be vacated within a specified period (of at least 28 days) from the date on which the order becomes operative, and
  - (b) be demolished within six weeks after the end of that period or, if it is not vacated before the end of that period, after the date on which it is vacated or, in either case, within such longer period as in the circumstances the local housing authority consider it reasonable to specify.
- (2) A closing order is an order prohibiting the use of the premises to which it relates for any purpose not approved by the local housing authority.
- (3) The approval of the local housing authority shall not be unreasonably withheld, and a person aggrieved by the withholding of such approval by the authority may, within 21 days of the refusal, appeal to the county court.

## 268 Service of notice of order.

- (1) Where a local housing authority have made a demolition or closing order, they shall serve a copy of the order on—
- (a) .....<sup>F307</sup>
  - (b) any . . .<sup>F308</sup> person who is an owner of the premises, and
  - (c) every mortgagee of the premises whom it is reasonably practicable to ascertain.
- [<sup>F309</sup>(1A) Where the premises in respect of which a demolition or closing order is made is a building or part of a building containing flats, any reference in paragraphs (b) and (c) of subsection (1) to “the premises” includes a reference to the flats in the building or part of the building concerned.]
- (2) An order against which no appeal is brought becomes operative at the end of the period of 21 days from the date of service of the order and is final and conclusive as to matters which could have been raised on an appeal.

### Textual Amendments

**F307** S. 268(1)(a) repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(b), 194(4), Sch. 9 Pt. II para. 16(1), **Sch. 12 Pt. II**

**F308** Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(b), 194(4), Sch. 9 Pt. II para. 16(1), **Sch. 12 Pt. II**

**F309** S. 268(1A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 16(2)**

## 269 Right of appeal against order.

- (1) A person aggrieved by a demolition or closing order may, within 21 days after the date of the service of the order, appeal to the county court.
- (2) No appeal lies at the instance of a person who is in occupation of the premises [<sup>F310</sup>or part of the premises] under a lease or agreement with an unexpired term of three years or less.
- [<sup>F311</sup>(2A) Without prejudice to the generality of subsection (1), it shall be a ground of appeal—

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- (a) in the case of a closing order, that serving a repair notice under section 189 or making a demolition order under section 265 is the most satisfactory course of action; and
- (b) in the case of a demolition order, that serving a repair notice under section 189 or making a closing order under section 264 is the most satisfactory course of action;

and, where the grounds on which an appeal is brought are or include that specified in paragraph (a) or paragraph (b), the court, on hearing the appeal, shall have regard to any guidance given to the local housing authority under section 604A.]

- (3) On an appeal the court—
  - (a) may make such order either confirming or quashing or varying the order as it thinks fit, . . . <sup>F312</sup>
  - (b) . . . . . <sup>F312</sup>

[<sup>F313</sup>(3A) Where an appeal is allowed against a closing or demolition order and the reason or one of the reasons for allowing the appeal is that specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (2A), the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect.]

- (4) . . . . . <sup>F314</sup>
- (6) If an appeal is brought the order does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the order or decision appealed against.

**Textual Amendments**

- F310** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 17(1)**
- F311** s. 269(2A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 17(2)**
- F312** Word;and and s. 269(3)(b) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), **Sch. 9 Pt. II para. 17(3), Sch. 12 Pt. II**
- F313** S. 269(3A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 17(4)**
- F314** s. 269(4)(5) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), **Sch. 9 Pt. II para. 17(5), Sch. 12 Pt. II**

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

- C95** [S. 269\(2A\)](#) amended (17.12.1996) by [S.I. 1996/2885](#), **art. 4(3)**

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VALID FROM 06/04/2006

**[<sup>F315</sup>269 Appeals suggesting certain other courses of action**

- (1) One ground of appeal under section 269 in relation to a demolition order made under section 265 is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (2) The courses of action are—
  - (a) serving an improvement notice under section 11 or 12 of the Housing Act 2004;
  - (b) making a prohibition order under section 20 or 21 of that Act;
  - (c) serving a hazard awareness notice under section 28 or 29 of that Act; or
  - (d) declaring the area in which the premises concerned are situated to be a clearance area in accordance with section 289 of this Act.
- (3) Subsection (4) applies where—
  - (a) a residential property tribunal is hearing an appeal under section 269 in relation to a demolition order made under section 265; and
  - (b) the grounds on which the appeal is brought are or include the ground that a course of action mentioned in subsection (2) is the best course of action in relation to each hazard concerned.
- (4) The tribunal shall have regard to any guidance given to the local housing authority under section 9 of the Housing Act 2004.
- (5) Subsection (6) applies where—
  - (a) an appeal under section 269 is allowed against a demolition order made under section 265; and
  - (b) the reason or one of the reasons for allowing the appeal is that a course of action mentioned in subsection (2) is the best course of action in relation to the hazard concerned.
- (6) The tribunal shall, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.
- (7) Subsection (1) of this section is without prejudice to the generality of section 269.]

**Textual Amendments**

**F315** S. 269A inserted (6.4.2006 for E. and 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), ss. 265(1), 270(4)(5), [Sch. 15 para. 15](#); S.I. 2006/1060, [art. 2\(1\)\(d\)](#) (with Sch.); S.I. 2006/1535, [art. 2\(b\)](#) (with Sch.)

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### Demolition orders

#### 270 Demolition orders: recovery of possession of building to be demolished.

- (1) Where a demolition order has become operative [<sup>F316</sup>with respect to any premises], the local housing authority shall serve on [<sup>F317</sup>any occupier of the premises or any part of the premises] a notice—
  - (a) stating the effect of the order,
  - (b) specifying the date by which the order requires the [<sup>F318</sup>premises] to be vacated, and
  - (c) requiring him to quit the [<sup>F318</sup>premises] before that date or before the expiration of 28 days from the service of the notice, whichever may be the later.
- (2) If any person is in occupation of [<sup>F319</sup>the premises], or any part of [<sup>F320</sup>them], at any time after the date on which the notice requires [<sup>F319</sup>the premises] to be vacated, the local housing authority or an owner of [<sup>F319</sup>the premises] may apply to the county court which shall thereupon order vacant possession of [<sup>F319</sup>the premises] or part to be given to the applicant within such period, of not less than two or more than four weeks, as the court may determine.
- (3) Nothing in the Rent Acts [<sup>F321</sup>or Part I of the Housing Act 1988] affects the provisions of this section relating to the obtaining possession of [<sup>F322</sup>any premises].
- (4) Expenses incurred by the local housing authority under this section in obtaining possession of [<sup>F322</sup>any premises], or part of [<sup>F322</sup>any premises], may be recovered by them by action from the owner, or from any of the owners, of [<sup>F319</sup>the premises].
- (5) A person who, knowing that a demolition order has become operative and applies to [<sup>F322</sup>any premises]—
  - (a) enters into occupation of [<sup>F319</sup>the premises], or a part of [<sup>F320</sup>them], after the date by which the order requires [<sup>F320</sup>them] to be vacated, or
  - (b) permits another person to enter into such occupation after that date,commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £5 for every day or part of a day on which the occupation continues after conviction.

#### Textual Amendments

- F316** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(1\)\(a\)](#)
- F317** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(1\)\(b\)](#)
- F318** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(1\)\(c\)](#)
- F319** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(2\)\(a\)](#)
- F320** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(2\)\(b\)](#)
- F321** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 47](#)
- F322** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 18\(2\)\(c\)](#)

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## 271 Demolition orders: execution of order.

- (1) When a demolition order has become operative, the owner of the premises to which it applies shall demolish the premises within the time limited by the order, and if the premises are not demolished within that time the local housing authority shall enter and demolish them and sell the materials.
- (2) Subsection (1) has effect subject to—
  - section 273 (cleansing before demolition),
  - section 274 (power to permit reconstruction), and
  - section 275 (use otherwise than for human habitation).

## 272 Demolition orders: expenses of local housing authority, &c.

- (1) Expenses incurred by the local housing authority under section 271 (execution of demolition order), after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the premises.
- (2) If there is more than one owner—
  - (a) the expenses may be recovered by the local housing authority from the owners in such shares as the court may determine to be just and equitable, and
  - (b) an owner who pays to the authority the full amount of their claim may recover from any other owner such contribution, if any, as the court may determine to be just and equitable.
- (3) A surplus in the hands of the authority shall be paid by them to the owner of the premises or, if there is more than one owner, as the owners may agree.
- (4) If there is more than one owner and the owners do not agree as to the division of the surplus, the authority shall, by virtue of this subsection, be trustees of the surplus for the owners of the premises and section 63 of the <sup>M58</sup>Trustee Act 1925 (which relates to payment into court by trustees) has effect accordingly.
- (5) The county court has jurisdiction to hear and determine proceedings under subsection (1) or (2), and has jurisdiction under section 63 of the <sup>M59</sup>Trustee Act 1925 in relation to such a surplus as is referred to in subsection (4).
- (6) In determining for the purposes of this section the shares in which expenses are to be paid or contributed by, or a surplus divided between, two or more owners of premises, the court shall have regard to all the circumstances of the case, including—
  - (a) their respective interests in the premises, and
  - (b) their respective obligations and liabilities in respect of maintenance and repair under any covenant or agreement, whether express or implied.

### Marginal Citations

M58 1925 c. 19

M59 1925 c. 19.

## 273 Demolition orders: cleansing before demolition.

- (1) If it appears to the local housing authority that premises to which a demolition order applies require to be cleansed from vermin, they may, at any time between the date on

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which the order is made and the date on which it becomes operative, serve notice in writing on the owner or owners of the premises that they intend to cleanse the premises before they are demolished.

- (2) Where the authority have served such a notice—
  - (a) they may, at any time after the order has become operative and the premises have been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin, and
  - (b) the demolition shall not be begun or continued by an owner after service of the notice on him, except as mentioned in subsection (3), until the authority have served on him a further notice authorising him to proceed with the demolition.
- (3) An owner on whom a notice has been served under subsection (1) may, at any time after the premises have been vacated, serve notice in writing on the authority requiring them to carry out the work within 14 days from the receipt of the notice served by him, and at the end of that period shall be at liberty to proceed with the demolition whether the work has been completed or not.
- (4) Where the local housing authority serve a notice under subsection (1), they shall not take action under section 271 (under which they are to demolish the [<sup>F323</sup>premises] if the owners do not) until the expiration of six weeks from the date on which the owner or owners become entitled by virtue of subsection (2) or (3) to proceed with the demolition.

#### Textual Amendments

**F323** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 19](#)

### 274 Demolition orders: power to permit reconstruction of condemned house.

- (1) Where a demolition order has become operative—
  - (a) the owner of the [<sup>F324</sup>premises], or
  - (b) any other person who in the opinion of the local housing authority is or will be in a position to put his proposals into effect,may submit proposals to the authority for the execution by him of works designed to secure the reconstruction, enlargement or improvement of the [<sup>F324</sup>premises], or of buildings including the house.
- (2) If the authority are satisfied that the result of the works will be the provision of one or more [<sup>F325</sup>dwelling-houses or houses in multiple occupation] fit for human habitation, they may, in order that the person submitting the proposals may have an opportunity of carrying out the works, extend for such period as they may specify the time within which the owner of the [<sup>F326</sup>premises] is required under section 271 to demolish [<sup>F327</sup>them].
- (3) That time may be further extended by the authority, once or more often as the case may require, if—
  - (a) the works have begun and appear to the authority to be making satisfactory progress, or
  - (b) though they have not begun, the authority think there has been no unreasonable delay.

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- (4) Where the authority determine to extend, or further extend, the time within which the owner of [<sup>F328</sup>any premises] is required under section 271 to demolish [<sup>F329</sup>them], notice of the determination shall be served by the authority on every person having an interest in [<sup>F330</sup>the premises or part of the premises], whether as freeholder, mortgagee or otherwise.
- (5) If the works are completed to the satisfaction of the authority they shall revoke the demolition order (but without prejudice to any subsequent proceedings under this Part).

#### Textual Amendments

- F324** Word substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(1)**
- F325** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(2)(a)**
- F326** Word substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(2)(b)**
- F327** Word substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(2)(c)**
- F328** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(3)(a)**
- F329** Word substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(3)(b)**
- F330** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 20(3)(c)**

VALID FROM 06/04/2006

#### **[<sup>F331</sup>274A] Effect of certain enforcement action under the Housing Act 2004**

A demolition order which has been made in respect of any premises shall cease to have effect if a management order under Chapter 1 or 2 of Part 4 of the Housing Act 2004 comes into force in relation to the premises.]

#### Textual Amendments

- F331** S. 274A inserted (6.4.2006 for E. and 16.6.2006 for W.) by Housing Act 2004 (c. 34), ss. 265(1), 270(4)(5), **Sch. 15 para. 17**; S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

#### **275 Demolition orders: substitution of closing order to permit use otherwise than for human habitation.**

- (1) If an owner of [<sup>F332</sup>any premises] in respect of which a demolition order has become operative, or any other person who has an interest in [<sup>F333</sup>the premises], submits proposals to the local housing authority for the use of [<sup>F333</sup>the premises] for a purpose other than human habitation, the authority may if they think fit to do so determine the demolition order and make a closing order as respects [<sup>F333</sup>the premises].



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- (2) The authority shall serve notice that the demolition order has been determined, and a copy of the closing order, on <sup>F334</sup>every person on whom they would be required by section 268 to serve a copy of a closing order made under section 264].

#### Textual Amendments

- F332** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 21\(1\)\(a\)](#)
- F333** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 21\(1\)\(b\)](#)
- F334** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 21\(2\)](#)

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

- C96** [S. 275\(1\)](#) extended by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 58, [Sch. 2 para. 1\(1\)](#)

### *Closing orders*

#### **276 Closing orders: recovery of possession of house.**

Nothing in the Rent Acts <sup>F335</sup>or Part I of the Housing Act 1988] prevents possession being obtained by the owner of premises in respect of which a closing order is in force.

#### Textual Amendments

- F335** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 47](#)

#### **277 Closing orders: enforcement.**

If a person, knowing that a closing order has become operative and applies to premises, uses the premises in contravention of the order, or permits them to be so used, he commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £20 for every day or part of a day on which he so uses them or permits them to be so used after conviction.

#### **278 Closing orders: determination of order on premises being rendered fit.**

- (1) The local housing authority shall determine a closing order on being satisfied that the <sup>F336</sup>dwelling-house, house in multiple occupation or, in the case of a building containing flats, the flats concerned] have been rendered fit for human habitation, and if so satisfied as respects part of the premises they shall determine the order so far as it relates to that part.
- (2) A person aggrieved by a refusal by the local housing authority to determine a closing order, either wholly or as respects part of the premises to which it relates, may, within 21 days after the refusal, appeal to the county court.
- (3) No appeal lies at the instance of a person who is in occupation of the premises, or a relevant part of the premises, under a lease or agreement of which the unexpired term is three years or less.

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**Textual Amendments**  
**F336** By [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 22** it is provided that for the words “premises” in the first place where they occur there is substituted words beginning “dwelling-house,”

**279 Closing orders: substitution of demolition order.**

- (1) Where a local housing authority have made a closing order, they may, subject to [<sup>F337</sup>subsections (2) and (2A)], at any time revoke it and make a demolition order.
- (2) The power conferred by subsection (1) is not exercisable in relation to a closing order made under or by virtue of—
  - .....<sup>F338</sup>,
  - section 304(1) (listed buildings), or
  - section 304(2) (building subject to demolition order becoming listed),
 or where the closing order has been determined under section 278 as respects part of the premises to which it relates.
- [<sup>F339</sup>(2A) The power conferred by subsection (1) is not exercisable in relation to a closing order made under section 264(1) where the dwelling-house concerned is a flat or, as the case may be, where the house in multiple occupation is a flat in multiple occupation.]
- (3) The provisions of this Part relating to demolition orders, including the provisions relating to service of copies of the order and appeals, apply to an order under this section as they apply to a demolition order under section 265.

**Textual Amendments**  
**F337** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 23**  
**F338** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), Sch. 9 Pt. II para. 23(2), **Sch. 12 Pt. II**  
**F339** S. 279(2A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 23(3)**

**280**— .....<sup>F340</sup>  
**282.**

**Textual Amendments**  
**F340** Ss. 280–282 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), Sch. 9 Pt. II para. 24, **Sch. 12 Pt. II**

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### Demolition of obstructive buildings

#### 283 Buildings liable to be demolished as “obstructive buildings”.

- (1) In this Part “obstructive building” means a building which, by virtue only of its contact with or proximity to other buildings, is dangerous or injurious to health.
- (2) A building is not liable to be demolished as an obstructive building under the following provisions of this Part if it is—
  - (a) the property of statutory undertakers (unless the building is used for the purposes of a dwelling, showroom or office), or
  - (b) the property of a local authority.
- (3) In subsection (2) “statutory undertakers” means persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . <sup>F341</sup>, . . . <sup>F342</sup> or other public undertaking.

#### Textual Amendments

**F341** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18 Pt. I**

**F342** Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(3), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

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

**C97** Ss. 283, 296 extended by Airports Act 1986 (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(1)**

**C98** S. 283 modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(2)(o)** (with s. 106); S.I. 2001/869, **art. 2**

**C99** Ss. 283(2), 296 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xlviii), **Sch. 8 para. 33**

**C100** S. 283(2) extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xl), **Sch. 17 para. 35(1)**

**C101** S. 283(2) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxxvi)**; S.I. 1996/218, **art. 2**

#### 284 Obstructive building order.

- (1) The local housing authority may serve upon every owner of a building which appears to them to be an obstructive building, notice of a time (not being less than 21 days after the service of the notice) and place at which the question of ordering the building to be demolished will be considered by the authority.
- (2) Every owner of the building is entitled to be heard when the matter is so taken into consideration.
- (3) If, after so taking the matter into consideration, the authority are satisfied that the building is an obstructive building and that the building, or a part of it, ought to be demolished, they shall make an obstructive building order, that is to say, an order requiring—
  - (a) that the building, or part of it, be demolished, and
  - (b) that the building, or such part of it as is required to be vacated for the purposes of the demolition, be vacated within two months from the date on which the order becomes operative.

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- (4) The authority shall serve a copy of the order on every owner of the building.
- (5) The order becomes operative, if no appeal is brought against it, on the expiration of 21 days from the date of the service of the order and is final and conclusive as to matters which could have been raised on such an appeal.

### **285 Right of appeal against obstructive building order.**

- (1) A person aggrieved by an obstructive building order may, within 21 days after the date of the service of the order, appeal to the county court.
- (2) No appeal lies at the instance of a person who is in occupation of the building to which the order relates under a lease or agreement of which the unexpired term is three years or less.
- (3) On an appeal the court may make such order either confirming, quashing or varying the order as it thinks fit.
- (4) If an appeal is brought, the order does not become operative until—
  - (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);
 and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the order or decision appealed against.

### **286 Obstructive building order: recovery of possession of building to be demolished.**

- (1) Where an obstructive building order has become operative, the local housing authority shall serve on the occupier of the building, or part of a building, to which the order relates a notice—
  - (a) stating the effect of the order,
  - (b) specifying the date by which the order requires the building to be vacated, and
  - (c) requiring him to quit the building before that date or before the expiration of 28 days from the service of the notice, whichever may be the later.
- (2) If at any time after the date on which the notice requires the building to be vacated a person is in occupation of the building, or part of it, the local housing authority or an owner of the building may apply to the county court which shall order vacant possession of the building, or of the part of it, to be given to the applicant within such period, of not less than two or more than four weeks, as the court may determine.
- (3) Nothing in the Rent Acts [<sup>F343</sup>or Part I of the Housing Act 1988] affects the provisions of this section relating to the obtaining of possession of a building.
- (4) A person who, knowing that an obstructive building order has become operative and applies to a building—
  - (a) enters into occupation of the building, or of a part of it, after the date by which the order requires the building to be vacated, or
  - (b) permits another person to enter into such occupation after that date,

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commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale and to a further fine not exceeding £5 a day for every day or part of a day on which the occupation continues after conviction.

#### Textual Amendments

**F343** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt I para. 47](#)

### 287 Execution of obstructive building order.

- (1) If before the end of the period within which a building in respect of which an obstructive building order is made is required by the order to be vacated—
  - (a) an owner whose estate or interest in the building and its site is such that its acquisition by the local housing authority would enable the authority to carry out the demolition provided for by the order, or
  - (b) owners whose combined estates or interests in the building and its site are such that their acquisition by the authority would enable the authority to carry out the demolition provided by the order,make to the authority an offer for the sale of that interest, or of those interests, at a price to be assessed as if it were compensation for a compulsory purchase under section 290 (acquisition of land for clearance), the authority shall accept the offer and shall, as soon as possible after obtaining possession, carry out the demolition.
- (2) If no such offer is made before the end of the period within which the building is required by the order to be vacated, the owner or owners shall carry out the demolition provided for by the order before the expiration of six weeks from—
  - (a) the last day of that period, or
  - (b) if the building, or such part of it as is required to be vacated, is not vacated until after that day, the day on which it is vacated,or, in either case, such longer period as in the circumstances the local housing authority deem reasonable.
- (3) If the demolition is not so carried out, the local housing authority shall enter and carry out the demolition and sell the materials rendered available by the demolition.

### 288 Obstructive buildings: expenses of local housing authority, &c.

- (1) Expenses incurred by the local housing authority under section 287(3) (execution of obstructive building order) after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the building.
- (2) If there is more than one owner—
  - (a) the expenses may be recovered by the authority from the owners in such shares as the court may determine to be just and equitable, and
  - (b) an owner who pays to the authority the full amount of their claim may recover from any other owner such contribution, if any, as the court may determine to be just and equitable.
- (3) A surplus in the hands of the authority shall be paid by them to the owner of the building or, if there is more than one owner, as the owners may agree.

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- (4) If there is more than one owner and the owners do not agree as to the division of the surplus, the authority shall, by virtue of this subsection, be trustees of the surplus for the owners of the premises and section 63 of the <sup>M60</sup>Trustee Act 1925 (which relates to payment into court by trustees) has effect accordingly.
- (5) The county court has jurisdiction to hear and determine proceedings under subsection (1) or (2), and has jurisdiction under section 63 of the Trustee Act 1925 in relation to such a surplus as is referred to in subsection (4).
- (6) In determining for the purposes of this section the shares in which expenses are to be paid or contributed by, or a surplus divided between, two or more owners of a building, the court shall have regard to all the circumstances of the case, including—
  - (a) their respective interests in the building, and
  - (b) their respective obligations and liabilities in respect of maintenance and repair under any covenant or agreement, whether express or implied.

#### Marginal Citations

**M60** 1925 c. 19.

### *Clearance areas*

#### **289 Declaration of clearance area.**

- (1) A clearance area is an area which is to be cleared of all buildings in accordance with the following provisions of this Part.
- (2) [<sup>F344</sup>Subject to subsections (2B) to (2F), (4), and (5B)] the local housing authority shall declare an area to be a clearance area if they are satisfied—
  - (a) that the [<sup>F345</sup>buildings in the area which are dwelling-houses or houses in multiple occupation or contain one or more flats (in this section referred to as “residential buildings”)] are unfit for human habitation or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, and
  - (b) that the other buildings, if any, in the area are for a like reason dangerous or injurious to the health of the inhabitants of the area,
 and [<sup>F346</sup>in accordance with subsection 604A] that the most satisfactory [<sup>F347</sup>course of action] is the demolition of all the buildings in the area.
- [<sup>F348</sup>(2A) A residential building containing one or more flats shall be treated for the purposes of this section as unfit for human habitation if some or all of the flats within it are unfit for human habitation.
- (2B) Before declaring an area to be a clearance area, the authority shall—
  - (a) serve notice of their intention to include a building in the clearance area on every person who has an interest in the building (whether as freeholder, lessee or mortgagee) and also, in the case of a residential building, on every person who has such an interest in any flat in the building; and
  - (b) take reasonable steps to inform any occupiers of a residential building who do not have such an interest in the building or a flat in the building as is referred

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- to in paragraph (a) of their intention to include the building in the clearance area; and
- (c) publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) notice of their intention to declare the area to be a clearance area.
- (2C) A notice served under paragraph (a) of subsection (2B) shall invite representations from the person on whom the notice was served within such reasonable period, being not less than twenty-eight days after the date on which the notice is served, as may be specified in the notice.
- (2D) The authority shall, by the steps taken in relation to occupiers of a residential building as mentioned in paragraph (b) of subsection (2B), invite representations from those occupiers within such reasonable period, expiring not less than twenty-eight days after the date on which the steps are taken, as may be specified by the authority.
- (2E) A notice published in accordance with paragraph (c) of subsection (2B) shall invite representations from any interested persons within such reasonable period, being not less than twenty-eight days after the date on which the notice is published, as may be specified in the notice.
- (2F) The authority shall consider all representations made under subsections (2C), (2D) and (2E) and, in the light of the representations, shall take whichever of the following decisions they think appropriate, that is to say—
- (a) they may decide to declare the area to be a clearance area; or
- (b) they may decide to declare the area to be a clearance area but exclude such residential buildings which are unfit for human habitation as they think fit; or
- (c) they may decide not to declare the area to be a clearance area.]
- (3) [<sup>F349</sup>Subject to subsection (5B), where the authority decide to declare an area to be a clearance area in accordance with paragraph (a) or paragraph (b) of subsection (2F)] they shall—
- (a) cause the area to be defined on a map in such manner as to exclude from any area
- [<sup>F350</sup>(i) any residential building which is not unfit for human habitation or dangerous or injurious to health;
- (ii) any other building which is not dangerous or injurious to health; and
- (iii) any residential buildings which, by virtue of subsection (2F)(b), they have decided to exclude from the area; and]
- (b) pass a resolution declaring the area so defined to be a clearance area.
- (4) Before passing such a resolution the authority shall satisfy themselves—
- (a) that, in so far as suitable accommodation does not already exist for the persons who will be displaced by the clearance of the area, the authority can provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as the demolition of the buildings in the area, or in different parts of it, proceeds, and
- (b) that the resources of the authority are sufficient for the purposes of carrying the resolution into effect.
- (5) The authority shall forthwith transmit to the Secretary of State a copy of any resolution passed by them under this section, together with a statement of the number of persons

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who on a day specified in the statement were occupying the buildings comprised in the clearance area.

[<sup>F351</sup>(5A) Where a residential building which is unfit for human habitation is not included within a clearance area, whether by virtue of paragraph (b) or paragraph (c) of subsection (2F), the authority shall forthwith, in accordance with section 604A (disregarding guidance under that section in respect of this section), take action in respect of the building (and any flat contained within it) under whichever of sections 189, 264 and 265 it considers to be the most satisfactory course of action.

(5B) Subject to section 578A, a clearance area may not include any parcel of land which is not contiguous with another parcel of land within the area; and, where the effect of subsection (3) would otherwise be that a clearance area would comprise two or more separate and distinct areas, paragraph (b) of that subsection shall have effect as if for the words “pass a resolution declaring the area so defined” there were substituted “if the effect of paragraph (a) would otherwise be that the area would comprise two or more separate and distinct areas, pass a separate resolution in respect of each of those areas declaring each of them]

(6) ..... <sup>F352</sup>

#### Textual Amendments

- F344** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(1)(a)**
- F345** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(1)(b)**
- F346** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(1)(c)**
- F347** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(1)(c)**
- F348** S. 289(2A)–(2F) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(2)**
- F349** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(3)(a)**
- F350** S. 289(3)(a)(i)–(iii) substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(3)(b)**
- F351** S. 289(5A)(5B) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 25(4)**
- F352** S. 289(6) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1)(4), Sch. 11 para. 70, **Sch. 12 Pt. II**

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

- C102** S. 289 restricted (11.9.1996 for specified purposes and 16.12.1997 otherwise) by [1996 c. 53, s. 131\(1\)](#); [S.I. 1996/2352, art. 2\(2\)](#); [S.I. 1997/2846, art. 2](#)

## 290 Acquisition of land for clearance.

- (1) So soon as may be after the local housing authority have declared an area to be a clearance area, they shall proceed to secure the clearance of the area (subject to and in accordance with the provisions of this Part) by purchasing the land comprised in the area and themselves undertaking, or otherwise securing, the demolition of the buildings on the land.



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- (2) Where the authority determine to purchase land comprised in a clearance area, they may also purchase—
  - (a) land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, and
  - (b) adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the cleared area.
- (3) Where the authority have determined to purchase land under this section, they may purchase the land by agreement or be authorised by the Secretary of State to purchase the land compulsorily.
- (4) The powers conferred by subsection (3) are exercisable notwithstanding that any of the buildings within the area have been demolished since the area was declared to be a clearance area.

### **291 Method of dealing with land acquired for clearance.**

- (1) A local housing authority who have purchased land under section 290 shall, so soon as may be, cause every building on the land to be vacated and deal with the land in one or other of the following ways, or partly in one of those ways and partly in the other, that is to say—
  - (a) themselves demolish every building on the land within the period mentioned in subsection (2) and thereafter appropriate or dispose of the land, subject to such restrictions and conditions (if any) as they think fit, or
  - (b) dispose of the land as soon as may be subject to a condition that the buildings on it be demolished forthwith, and subject to such restrictions and other conditions (if any) as they think fit.
- (2) The period within which the authority is to demolish a building under paragraph (a) of subsection (1) is six weeks from the date on which the building is vacated or such longer period as in the circumstances they consider reasonable.
- (3) This section has effect subject to—
  - section 301 (retention of premises for temporary housing use),
  - sections 305 and 306 (suspensions of clearance procedure on building becoming listed), and
  - ..... F353
- (4) The references in subsection (1) to appropriation or disposal under the general powers conferred by section 122 or 123 of the <sup>M61</sup>Local Government Act 1972.

#### **Textual Amendments**

**F353** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 26](#), [Sch. 12 Pt. II](#)

#### **Marginal Citations**

**M61** [1972 c. 70](#).

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**292 Power to discontinue proceedings if acquisition of land proves unnecessary.**

Where the local housing authority have submitted to the Secretary of State an order for the compulsory purchase of land in a clearance area and the Secretary of State, on an application being made to him by the owner or owners of the land and the authority, is satisfied—

- (a) that the owner or owners of the land, with the concurrence of any mortgagee of the land, agree to the demolition of the buildings on the land, and
- (b) that the authority can secure the proper clearance of the area without acquiring the land,

the Secretary of State may authorise the authority to discontinue proceedings for the purchase of the land on their being satisfied that such covenants have been or will be entered into by all necessary parties as may be requisite for securing that the buildings will be demolished, and the land become subject to the like restrictions and conditions, as if the authority had dealt with the land in accordance with the provisions of section 291.

**293 Property belonging to the local housing authority.**

- (1) The local housing authority may include in a clearance area land belonging to them which they might have included in the area if it had not belonged to them, and the provisions of this Part apply to land so included as they apply to land purchased by the authority as being comprised in the clearance area.
- (2) Where land belonging to the local housing authority is surrounded by or adjoins a clearance area and might, had it not previously been acquired by them, have been purchased by the authority under section 290(2), the provisions of this part apply to that land as they apply to land purchased by the authority as being surrounded by or adjoining the clearance area.

**294 Extinguishment of public rights of way over land acquired.**

- (1) The local housing authority may, with the approval of the Secretary of State, by order extinguish any public right of way over land acquired by them under section 290 (land acquired for clearance) [<sup>F354</sup>as from such date as the Secretary of State in approving the order may direct].
- (2) Where the authority have resolved to purchase under that section land over which a public right of way exists, [<sup>F355</sup>an order made by the authority in advance of the purchase and approved by the Secretary of State (whether before or after the purchase) shall extinguish that right as from such date as the Secretary of State in approving the order may direct].
- (3) The order shall be published in such manner as may be prescribed and if objection to the order is made to the Secretary of State before the expiration of [<sup>F356</sup>four] weeks from its publication [<sup>F357</sup>then, subject to subsection (4)], he shall not approve the order until he has caused a public local inquiry to be held into the matter.
- [<sup>F358</sup>(4) The Secretary of State may dispense with such an inquiry as is referred to in subsection (3) if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.]

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### Textual Amendments

- F354** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 27\(1\)](#)
- F355** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 27\(2\)](#)
- F356** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 27\(3\)\(a\)](#)
- F357** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 27\(3\)\(b\)](#)
- F358** S. 294(4) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 27\(4\)](#)

## 295 Extinguishment of other rights over land acquired.

- (1) Upon the completion by the local housing authority of the purchase by them under section 290 (land acquired for clearance)—
- all private rights of way over the land,
  - all rights of laying down, erecting, continuing or maintaining apparatus on, under or over the land, and
  - all other rights or easements in or relating to the land,
- shall be extinguished and any such apparatus shall vest in the authority.
- (2) Subsection (1) has effect subject to—
- any agreement which may be made between the local housing authority and the person in or to whom the right or apparatus is vested or belongs, and
  - sections 296 and 298 (which relate to the rights and apparatus of statutory undertakers and certain operators of telecommunication systems).
- (3) A person who suffers loss by the extinguishment of any right or the vesting of any apparatus under subsection (1) is entitled to be paid by the local housing authority compensation to be determined under and in accordance with the <sup>M62</sup>Land Compensation Act 1961.

### Marginal Citations

**M62** 1961 c. 33.

## 296 Apparatus of statutory undertakers.

- (1) Section 295(1) (extinguishment of rights over land acquired for clearance and vesting of apparatus in local housing authority) does not apply to—
- any right vested in statutory undertakers of laying down, erecting, continuing or maintaining any apparatus, or
  - any apparatus belonging to statutory undertakers.
- (2) Where the removal or alteration of apparatus belonging to statutory undertakers—
- on, under or over land purchased by a local housing authority under section 290 (land acquired for clearance), or
  - on, under or over a street running over, or through, or adjoining any such land.

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is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred on them by the provisions of this Part relating to clearance areas, the authority may execute works for the removal or alteration of the apparatus, subject to and in accordance with the provisions of section 297 (procedure for removal or alteration of apparatus).

- (3) The local housing authority shall make reasonable compensation to statutory undertakers for any damage sustained by the undertakers by reason of the execution by the authority of works under this section and not made good by the provision of substituted apparatus; and any question as to the right of undertakers to recover such compensation or as to its amount shall be referred to and determined by the Lands Tribunal.
- (4) In this section—
- (a) “statutory undertakers” means persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . <sup>F359</sup>, . . . <sup>F360</sup> or other public undertaking;
  - (b) “apparatus” means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying street lamps;
  - (c) references to the alteration of apparatus include references to diversion and to the alteration of position or level.

#### Textual Amendments

**F359** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

**F360** Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(3), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

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

**C103** Ss. 283, 296 extended by Airports Act 1986 (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(1)**

**C104** Ss. 283(2), 296 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xlviii), **Sch. 8 para. 33**

**C105** S. 296 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 2(4)(e)(9), Sch. 17 paras. 33, **35(1)**

S. 296 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxxvi)**; S.I. 1996/218, **art. 2**

**C106** S. 296 modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(2)(o)** (with s. 106); S.I. 2001/869, **art. 2**

## 297 Procedure for removal or alteration of apparatus under s. 296.

- (1) A local housing authority who intend to remove or alter apparatus in exercise of the power conferred by section 296—
- (a) shall serve on the undertakers notice in writing of their intention with particulars of the proposed works and of the manner in which they are to be executed and plans and sections of them, and
  - (b) shall not commence any works until the expiration of the period of 28 days from the date of service of that notice;

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and within that period the undertakers may, by notice in writing served on the authority, make objections to, or state requirements with respect to, the proposed works as follows.

- (2) The undertakers may object to the execution of the works, or any of them, on the ground that they are not reasonably necessary for the purpose mentioned in section 296(2); and if objection is so made to any works and not withdrawn, the authority shall not execute the works unless they are determined by arbitration to be so necessary.
- (3) The undertakers may state requirements to which, in their opinion, effect ought to be given as to—
  - (a) the manner of, or the conditions to be observed in, the execution of the works, or
  - (b) the execution of other works for the protection of other apparatus belonging to the undertakers or for the provision of substituted apparatus, whether permanent or temporary;and if any such requirement is so made and not withdrawn, the authority shall give effect to it unless it is determined by arbitration to be unreasonable.
- (4) At least seven days before commencing any works which they are authorised by section 296, or required by subsection (3), to execute, the local housing authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention to do so; and the works shall be executed by the authority under the superintendence (at the expense of the authority) and to the reasonable satisfaction of the undertakers.
- (5) If within seven days from the date of service on them of such a notice the undertakers so elect, they shall themselves execute the works in accordance with the reasonable directions and to the reasonable satisfaction of the authority; and the reasonable costs of the works shall be repaid to the undertakers by the authority.
- (6) Any matter which by virtue of subsection (2) or (3) is to be determined by arbitration, and any difference arising between statutory undertakers and a local housing authority under subsection (4) or (5), shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Secretary of State.

## **298 Telecommunication apparatus.**

- (1) In this section—
  - (a) “the telecommunications code” means the code contained in Schedule 2 to the <sup>M63</sup>Telecommunications Act 1984,
  - (b) “telecommunications code system” means a telecommunication system to which that code applies, and
  - (c) expressions which are defined for the purposes of that code by paragraph 1 of that Schedule, or are defined in that Act for the purposes of that Act, have the same meaning in this section.
- (2) Where a public right of way over land is extinguished by an order under section 294 and immediately before the order comes into operation there is under, in, on, over, along or across the land telecommunication apparatus kept installed for the purposes of a telecommunications code system, the powers of the operator of the system in respect of the apparatus are not affected by the order, but any person entitled to the

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land over which the right of way subsisted may require the alteration of the apparatus, and paragraph 21 of the telecommunications code (procedure for exercise of right to require removal of apparatus) applies.

- (3) Section 295(1) (extinguishment of other rights over land acquired for clearance and vesting of apparatus in local housing authority) does not apply to—
  - (a) any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or
  - (b) telecommunication apparatus kept installed for the purposes of such a system; but the local housing authority may, where it is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred on them by the provisions of this Act relating to clearance areas, execute works for the alteration of such apparatus, and paragraph 23 of the telecommunications code (procedure for works involving alteration of apparatus) applies.

**Marginal Citations**

**M63** 1984 c. 12.

**299** ..... **F361**

**Textual Amendments**

**F361** S. 299 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(b), 194(4), Sch. 9 Pt. II para. 28, **Sch. 12 Pt. II**

*Use of condemned houses for temporary housing accommodation*

**300 Purchase of houses liable to be demolished or closed.**

- (1) Where the local housing authority would be required under <sup>F362</sup>section 264 or section 265 to make a demolition or closing order in respect of a <sup>F363</sup>dwelling-house (not being a flat), a house in multiple occupation (not being a flat in multiple occupation) or the whole of a building], they may, if it appears to them that the <sup>F364</sup>dwelling-house, house in multiple occupation or, as the case may be, building] is or can be rendered capable of providing accommodation of a standard which is adequate for the time being, purchase it instead.
- (2) Where an authority have determined to purchase <sup>F365</sup>any premises] under this section—
  - (a) they shall serve a notice of their determination on the persons on whom they would have been required by section 268(1) to serve a copy of a demolition or closing order, and
  - (b) sections 268(2) and <sup>F366</sup>269(1), (2), (3) and (6)] (operative date and right of appeal) apply to such a notice as they apply to a demolition or closing order.
- (3) At any time after the notice has become operative the authority may purchase the <sup>F367</sup>dwelling-house, house in multiple occupation or building] by agreement or be authorised by the Secretary of State to purchase it compulsorily.

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(4) ..... F368

(5) This section does not apply where section 304(1) applies (listed building or building protected pending listing).

#### Textual Amendments

**F362** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(1)(a)**

**F363** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(1)(b)**

**F364** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(1)(c)**

**F365** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(2)(a)**

**F366** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(2)(b)**

**F367** Words substituted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 29(3)**

**F368** S. 300(4) repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), **Sch. 12 Pt. II**

### 301 Retention of houses acquired for clearance.

(1) The local housing authority, having declared an area to be a clearance area, may postpone for such period as they may determine the demolition of [<sup>F369</sup>residential buildings] on land purchased by them within the area if, in their opinion, the [<sup>F369</sup>residential buildings] are or can be rendered capable of providing accommodation of a standard which is adequate for the time being.

(2) Where the local housing authority are satisfied that a [<sup>F370</sup>residential building] on land purchased by them within a clearance area which is not retained by them for temporary use for housing purposes—

- (a) is required for the support of a [<sup>F370</sup>residential building] which is so retained, or
- (b) should not be demolished for the time being for some other special reason connected with the exercise in relation to the clearance area of the authority's powers under subsection (1).

they may retain the [<sup>F370</sup>residential building] for the time being and are not required to demolish it so long as it is required for that purpose or, as the case may be, so long as those powers are being exercised by the authority in relation to that area.

(3) Where the demolition of any [<sup>F371</sup>residential buildings] in a clearance area is postponed under this section, the local housing authority may also postpone the taking of proceedings under section 290(1) (acquisition of land for clearance) in respect of buildings other than [<sup>F371</sup>residential buildings] within the area.

[<sup>F372</sup>(4) In this section and section 302 “residential building” has the same meaning as it has in section 289.]

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#### Textual Amendments

- F369** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 30(1)**
- F370** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 30(2)**
- F371** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 30(3)**
- F372** S. 301(4) inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 30(4)**

### 302 Management and repair of houses acquired under s. 300 or retained under s. 301

Where a [<sup>F373</sup>residential building] is acquired by a local housing authority under section 300 or retained by a local housing authority under section 301 for temporary use for housing purposes—

- (a) the authority have the like powers in respect of the [<sup>F373</sup>residential building] as they have in respect of dwellings provided by them under Part II (provision of housing accommodation);
- (b) the authority may carry out such works as may from time to time be required for rendering and keeping the [<sup>F373</sup>residential building] capable of providing accommodation of a standard which is adequate for the time being pending its demolition;
- (c) section 8 of the <sup>M64</sup>Landlord and Tenant Act 1985 (implied condition of fitness for human habitation) does not apply to a contract for the letting of the [<sup>F374</sup>residential building or any flat in the building] by the authority.

#### Textual Amendments

- F373** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 31(a)**
- F374** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 31(b)**

#### Marginal Citations

**M64** 1985 c. 70.

### *Listed buildings*

### 303 Meaning of “listed building”.

In this Part “listed building” means a building included in a list of buildings of special architectural or historic interest under [<sup>F375</sup>section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990].

#### Textual Amendments

- F375** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 71(2)**



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### 304 Closing order to be made in respect of listed building subject to s. 265.

- (1) A local housing authority shall not make a demolition order under section 265 [<sup>F376</sup>(power to make demolition order)] in respect of a listed building but shall instead make a closing order under [<sup>F377</sup>section 264].
- (2) Where a [<sup>F378</sup>dwelling-house, house in multiple occupation or building] in respect of which a demolition order has been made becomes a listed building, the local housing authority shall determine the order, whether or not it has become operative, and make a closing order in respect of the [<sup>F378</sup>dwelling-house, house in multiple occupation or building]; and they shall serve—
  - (a) notice that the demolition order has been determined, and
  - (b) a copy of the closing order,on every person on whom they would be required by section 268 to serve a copy of a closing order made under [<sup>F379</sup>section 264].
- (3) The Secretary of State may give notice in respect of a [<sup>F380</sup>dwelling-house, house in multiple occupation or building] to the local housing authority stating that its architectural or historic interest is sufficient to render it inexpedient that it should be demolished pending determination of the question whether it should be a listed building; and the provisions of this section apply to a [<sup>F380</sup>dwelling-house, house in multiple occupation or building] in respect of which such a notice is in force as they apply to a listed building.

#### Textual Amendments

- F376** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 32(1)(a)**
- F377** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 32(1)(b)**
- F378** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 32(2)(a)**
- F379** Words substituted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 32(2)(b)**
- F380** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 32(3)**

### 305 Building becoming listed when subject to compulsory purchase for clearance.

- (1) Where a building to which a compulsory purchase order under section 290 applies (acquisition of land for clearance) becomes a listed building at any time after the making of the order, the authority making the order may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Secretary of State (and only to him) [<sup>F381</sup>for his consent under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990] to the demolition of the building.
- (2) If the authority have not served notice to treat in respect of the building under section 5 of the <sup>M65</sup>Compulsory Purchase Act 1965, they shall not do so unless and until the Secretary of State gives that consent.
- (3) The following provisions of this section have effect where—
  - (a) an application for such consent is made and refused, or

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- (b) the period for making an application expires without the authority having made an application;
- and in those provisions “the relevant date” means the date of the refusal or, as the case may be, the expiry of that period.
- (4) If at the relevant date—
- (a) the building has not vested in the authority, and
- (b) no notice to treat has been served by the authority under section 5 of the <sup>M66</sup>Compulsory Purchase Act 1965 in respect of an interest in the building.
- the compulsory purchase order shall cease to have effect in relation to the building and, where applicable, the building shall cease to be comprised in a clearance area.
- (5) Where a [<sup>F382</sup>residential building] which was included in a clearance area solely be reason of its being unfit for human habitation ceases to be comprised in the area by virtue of subsection (4), the authority concerned shall forthwith [<sup>F383</sup>in accordance with section 604A (disregarding guidance under that section in respect of sections 265 and 289), take action under whichever of sections 189 and 264 it considers to be the most satisfactory course of action.]
- (6) Where subsection (4) does not apply, the authority shall cease to be subject to the duty imposed by section 291 (method of dealing with land acquired for clearance) to demolish the building, and—
- (a) if the building or an interest in it is vested in the authority at the relevant date, it shall be treated in the case of a [<sup>F384</sup>residential building] as appropriated to the purposes of Part II of this Act (provision of housing accommodation) and in any other case as appropriated to the purposes of [<sup>F385</sup>Part IX of the Town and Country Planning Act 1990] (planning purposes);
- (b) in relation to an interest in the building which has not at the relevant date vested in the authority, the compulsory purchase order has effect in the case of a [<sup>F384</sup>residential building] as if made and confirmed under Part II of this Act and in any other case as if made and confirmed under [<sup>F385</sup>Part IX of the Town and Country Planning Act 1990].
- (7) No account shall be taken for the purposes of section 4 of the Compulsory Purchase Act 1965 (time limit for completing compulsory purchase) of any period during which an authority are prevented by this section from serving a notice to treat under section 5 of that Act.
- [<sup>F386</sup>(8) In this section “residential building” has the same meaning as in section 289; and subsection (2A) of that section shall apply in determining whether a residential building containing one or more flats is unfit for human habitation for the purposes of subsection (4) as it applies for the purposes of that section.]

#### Textual Amendments

- F381** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 71\(3\)\(a\)](#)
- F382** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 33\(1\)\(a\)](#)
- F383** Words substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 33\(1\)\(b\)](#)
- F384** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 33\(2\)](#)

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**F385** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 71(3)(b)**

**F386** S. 305(8) inserted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 33(3)**

#### Marginal Citations

**M65** 1965 c. 56.

**M66** 1965 c. 56.

### 306 Building becoming listed when acquired by agreement for clearance.

- (1) Where section 291 (method of dealing with land acquired for clearance) applies to a building purchased by the local housing authority by agreement and the building becomes a listed building, the authority may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Secretary of State (and only to him) [<sup>F387</sup> for his consent under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990] to the demolition of the building.
- (2) Where such an application is made and is refused, or the period for making such an application expires without the authority making an application—
  - (a) the authority shall cease to be subject to the duty imposed by section 291 to demolish the building, and
  - (b) the building shall be treated in the case of a [<sup>F388</sup> residential building (within the meaning of section 289)] as appropriated to the purposes of Part II of this Act (provision of housing accommodation) and in any other case as appropriated to the purposes of [<sup>F389</sup> Part IX of the Town and Country Planning Act 1990] (planning purposes).

#### Textual Amendments

**F387** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 71(4)(a)**

**F388** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 34**

**F389** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 71(4)(b)**

#### *Provisions for protection or assistance of owners*

### 307 Saving for rights arising from breach of covenant, &c.

- (1) Nothing in the provisions of this Part relating to—
  - (a) the demolition, closing or purchase of unfit premises, or
  - (b) the demolition of obstructive buildings,prejudices or interferes with the rights or remedies of an owner for breach of any covenant or contract entered into by a lessee in reference to premises in respect of which an order is made by the local housing authority under those provisions.

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- (2) If an owner is obliged to take possession of premises in order to comply with such an order, the taking possession does not affect his right to avail himself of any such breach which occurred before he so took possession.

### **308 Approval of owner’s proposals for redevelopment.**

- (1) A person proposing to undertake the re-development of land may submit particulars of his proposals to the local housing authority for approval under this section.
- (2) The authority shall consider the proposals and if they appear to the authority to be satisfactory, the authority shall give notice to that effect to the person by whom they were submitted, specifying times within which the several parts of the re-development are to be carried out.
- (3) Where the authority have so given notice of their satisfaction with proposals, no action shall be taken in relation to the land under any of the powers conferred by the provisions of this Part relating to—
- (a) the demolition, closing or purchase of unfit premises, or
  - (b) clearance areas.
- if and so long as the re-development is being proceeded with in accordance with the proposals and within the specified time limits, subject to any variation or extension approved by the authority.
- (4) This section does not apply to premises—
- (a) in respect of which a demolition order has become operative, or
  - (b) comprised in a compulsory purchase order under section 290 (acquisition of land for clearance) which has been confirmed by the Secretary of State;
- and has effect subject to section 311 in a case where proposals are submitted under this section with respect to premises in a clearance area.

### **309 Recovery of possession of premises for purposes of approved re-development.**

- (1) Where the local housing authority have given notice of their satisfaction with proposals submitted to them under section 308 and are satisfied—
- (a) that it is necessary for the purpose of enabling re-development to be carried out in accordance with the proposals that a dwelling-house let on or subject to a protected tenancy or statutory tenancy (within the meaning of the <sup>M67</sup>Rent Act 1977) [<sup>F390</sup>or let on or subject to an assured tenancy or assured agricultural occupancy] should be vacated, and
  - (b) that alternative accommodation complying with the requirements of this section is available for the tenant or will be available for him at a future date,
- they may issue to the landlord a certificate, which shall be conclusive evidence for the purposes of section 98(1)(a) of the Rent Act 1977 [<sup>F390</sup>or section 7 of the Housing Act 1988] (grounds for possession), that suitable alternative accommodation is available for the tenant or will be available for him by that future date.
- (2) The requirements with which the alternative accommodation must comply are—
- (a) that it must be a [<sup>F391</sup>dwelling-house] in which the tenant and his family can live without causing it to be overcrowded within the meaning of Part X;

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- (b) that it must be certified by the local housing authority to be suitable to the needs of the tenant and his family as respects security of tenure, proximity to place of work and otherwise, and to be suitable in relation to his means; and
- (c) that if the [<sup>F391</sup>dwelling-house] belongs to the local housing authority it must be certified by them to be suitable to the needs of the tenant and his family as regards accommodation, for this purpose treating a [<sup>F391</sup>dwelling-house] containing two bedrooms as providing accommodation for four persons, a [<sup>F391</sup>dwelling-house] containing three bedrooms as providing accommodation for five persons and a [<sup>F391</sup>dwelling-house] containing four bedrooms as providing accommodation for seven persons.

#### Textual Amendments

**F390** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 48](#)

**F391** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 35](#)

#### Marginal Citations

**M67** [1977 c. 42.](#)

### 310 Certificate of fitness resulting from owner's improvements or alterations.

- (1) An owner of a [<sup>F392</sup>dwelling-house, house in multiple occupation or building containing one or more flats] in respect of which works of improvement or structural alteration are proposed to be executed may submit a list of the proposed works to the local housing authority with a request in writing that the authority inform him whether in their opinion the [<sup>F393</sup>dwelling-house, the house or the flat or flats in the building] would, after the execution of those works, or of those works together with additional works, be fit for human habitation and, with reasonable care and maintenance, remain so fit for a period of at least five years.
- (2) As soon as may be after the receipt of such a list and request, the authority shall take the list into consideration and shall inform the owner whether they are of that opinion, and, if they are, furnish him with a list of any additional works appearing to them to be required.
- (3) Where the authority have stated that they are of that opinion and the works specified in the list, together with any additional works specified in a list furnished by them, have been executed to their satisfaction, they shall, on the application of the owner and on payment by him of a fee of five pence, issue to him a certificate that the [<sup>F394</sup>dwelling-house or house is or, as the case may be, the flat or flats in the building is or are] fit for human habitation and will with reasonable care and maintenance remain so fit for such period (not being less than five nor more than 15 years) as may be specified in the certificate.
- (4) During the period specified in a certificate given under this section—
  - (a) no action shall be taken in relation to the [<sup>F395</sup>dwelling-house, house in multiple occupation or building] under the provisions of this Part relating to the demolition, closing or purchase of unfit premises, and
  - (b) no action shall be taken under the provisions of this Part relating to clearance areas with a view to the demolition of the [<sup>F395</sup>dwelling-house, house in multiple occupation or building] as being unfit for human habitation.

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- (5) For the purposes of this section “works of improvement” includes the provision of additional or improved fixtures or fittings but not works by way of decoration or repair.
- (6) This section does not apply to premises—
  - (a) in respect of which a demolition order has become operative, or
  - (b) comprised in a compulsory purchase order under section 290 (acquisition of land for clearance) which has been confirmed by the Secretary of State;
 and has effect subject to section 311 in a case where proposals are submitted under this section with respect to premises in a clearance area.

**Textual Amendments**

**F392** Words substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 36(1)(a)**

**F393** Words substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 36(1)(b)**

**F394** Words substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 36(2)**

**F395** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), **Sch. 9 Pt. II para. 36(3)**

**311 Consideration of proposals under s. 308 or s. 310 with respect to premises in clearance area.**

- (1) Where proposals as respects premises in a clearance area are submitted to the local housing authority under section 308 (owner’s re-development) or section 310 (owner’s improvements or alterations), the authority may, instead of proceeding under that section, transmit the proposals to the Secretary of State.
- (2) The Secretary of State shall deal with the proposals in connection with the consideration by him of the compulsory purchase order relating to the premises as if the proposals had been objections to the order made on the date on which they were submitted to the authority.
- (3) If in confirming the order the Secretary of State excludes the premises from the clearance area, the authority shall then proceed in relation to the proposals under section 308 or 310, as the case may be.

**312**— ..... **F396**  
**314.**

**Textual Amendments**

**F396** Ss. 312–314 repealed and superseded by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(3), 194(4), **Sch. 12, Pt. II** (by S.I. 1990/191, **art. 5** the repeal came into force 1.3.1990 but without effect in relation to any financial year beginning before 1.4.1990)

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### Miscellaneous

#### **315 Power of court to order occupier or owner to permit things to be done.**

- (1) If a person, after receiving notice of the intended action—
  - (a) being the occupier of premises, prevents the owner . . . <sup>F397</sup> of the premises, or his officers, servants or agents, from carrying into effect with respect to the premises any of the provisions of this Part, or
  - (b) being the occupier, [<sup>F398</sup> or owner] of premises, prevents an officer, servant or agent of the local housing authority from so doing,a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (2) A person who fails to comply with an order of the court under this section commits a summary offence and is liable on conviction to a fine not exceeding £20 in respect of each day during which the failure continues.

#### **Textual Amendments**

**F397** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 37\(a\)](#), [Sch. 12 Pt. II](#)

**F398** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 37\(b\)](#)

#### **316 Power of court to authorise owner to demolish premises on default of another owner.**

- (1) If it appears to a magistrates' court on the application of an owner of premises in respect of which a demolition order, or obstructive building order has been made, that owing to the default of another owner of the premises in demolishing the premises, the interests of the applicant will be prejudiced, the court may make an order empowering the applicant forthwith to enter on the premises, and, within a period fixed by the order, demolish them.
- (2) Where the court makes an order under subsection (1), the court may, where it seems to the court just to do so, make a like order in favour of any other owner.
- (3) Before an order is made under this section, notice of the application shall be given to the local housing authority.

#### **317 Power of court to determine lease where premises demolished or closed.**

- (1) Where premises in respect of which a demolition or closing order under this Part has become operative form the subject matter of a lease, the lessor or the lessee may apply to the county court for an order determining or varying the lease.
- (2) On the application the court may make such an order if it thinks fit, after giving any sub-lessee an opportunity of being heard.
- (3) The order may be unconditional or subject to such terms and conditions (including conditions with respect to the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise) as the court may think

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just and equitable to impose, having regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.

- (4) In this section “lessor” and “lessee” include a person deriving title under a lessor or lessee.

### **318 Power of court to authorise execution of works on unfit premises or for improvement.**

- (1) Where on an application made by a person entitled to any interest in land used in whole or in part as a site for [<sup>F399</sup>dwelling-houses or houses in multiple occupation or both] the court is satisfied—
- (a) that the premises on the land are, or are likely to become, dangerous or injurious to health or unfit for human habitation and the interests of the applicant are thereby prejudiced, or
  - (b) that the applicant should be entrusted with the carrying out of a scheme of improvement or reconstruction approved by the local housing authority,
- the court may make an order empowering the applicant forthwith to enter on the land and within a period fixed by the order execute such works as may be necessary.
- (2) Where the court makes such an order, it may order that any lease held from the applicant and any derivative lease shall be determined, subject to such conditions and the payment of such compensation as the court may think just.
- (3) The court shall include in its order provisions to secure that the proposed works are carried out and may authorise the local housing authority to exercise such supervision or take such action as may be necessary for the purpose.
- (4) In this section “the court” means the High Court or the county court, where those courts respectively have jurisdiction.

#### **Textual Amendments**

**F399** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(b), [Sch. 9 Pt. II para. 38](#)

#### *Supplementary provisions*

### **319 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving [<sup>F400</sup>seven days] notice of his intention to the occupier, and to the owner if the owner is known, enter premises—
- (a) for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises; or
  - (b) for the purpose of survey and examination where a demolition or closing order, or an obstructive building order, has been made in respect of the premises; or



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- (c) for the purpose of survey or valuation where the authority are authorised by this Part to purchase the premises compulsorily.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [F401] and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

**Textual Amendments**  
**F400** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 39\(1\)](#)  
**F401** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 39\(2\)](#)

**320 Penalty for obstruction.**

- (1) It is a summary offence [F402] intentionally] to obstruct an officer of the local housing authority or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding [F403]level 3] on the standard scale.

**Textual Amendments**  
**F402** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 40\(1\)](#)  
**F403** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 40\(2\)](#)

**321** ..... F404

**Textual Amendments**  
**F404** S. 321 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), ss. 165\(1\)\(b\), 194\(4\), Sch. 9 Pt. II para. 41, Sch. 12 Pt. II](#)

**322 Minor definitions.**

In this Part—  
[F405]“dwelling-house” and “flat”, except in the expression “flat in multiple occupation”, shall be construed in accordance with subsection (2) and “the building”, in relation to a flat, means the building containing the flat;]  
[F405]“house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI]  
“owner”, in relation to premises—

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- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years;

F406

[<sup>F407</sup>“premises”, in relation to a demolition or closing order, means the dwelling-house, house in multiple occupation, building or part of a building in respect of which the closing order or, as the case may be, demolition order is made.]

[<sup>F408</sup>(2) For the purposes of this Part, “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.

(3) Except where the context otherwise requires, any reference in this Part (other than this section) to a flat is a reference to a dwelling-house which is a flat or to a flat in multiple occupation.]

**Textual Amendments**

- F405** Definitions substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 42\(a\)](#)
- F406** Definition repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 42\(b\), Sch. 12 Pt. II](#)
- F407** Definition added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 42\(c\)](#)
- F408** S. 322(2)(3) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(b\), Sch. 9 Pt. II para. 42\(c\)](#)

**323 Index of defined expressions: Part IX.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

[ <sup>F409</sup> assured agricultural occupancy]	[ <sup>F409</sup> section 622]
[ <sup>F409</sup> assured tenancy]	[ <sup>F409</sup> section 622]
clearance area	section 289(1)
closing order	section 267(2)
demolition order	section 267(1)
district (of a local housing authority)	section 2(1)
[ <sup>F410</sup> dwelling house]	[ <sup>F410</sup> sections 266 and 322]
fit (or unfit) for human habitation	[ <sup>F411</sup> section 604]
...	...
[ <sup>F412</sup> flat]	[ <sup>F410</sup> section 322]
...	...

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F412	F412
F412	F412
[ <sup>F410</sup> house in multiple occupation]	[ <sup>F410</sup> section 322]
F412	F412
lease, lessee and lessor	section 621
listed building	section 303
local housing authority	section 1, 2(2)
obstructive building	section 283
obstructive building order	section 284
owner (of premises)	section 322
F412	F412
[ <sup>F410</sup> premises]	[ <sup>F410</sup> section 322]
prescribed	section 614
reasonable expense	section 321
rehabilitation order	Schedule 11
the Rent Acts	section 622
F412	F412
F412	F412
standard scale (in reference to the maximum fine on summary conviction)	section 622
underground room	section 280
unfit (or fit) for human habitation	[ <sup>F411</sup> section 604]
F412	F412

#### Textual Amendments

**F409** Entries inserted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 49**

**F410** Entries inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 43(c)**

**F411** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(b), **Sch. 9 Pt. II para. 43(b)**

**F412** Entries repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(b), 194(4), **Sch. 9 Pt. II para. 43(a), Sch. 12 Pt. II**

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## PART X

### OVERCROWDING

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

**C107** Pt. X (ss. 324–344): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. [65\(2\)\(4\)](#)

#### *Definition of overcrowding*

#### **324 Definition of overcrowding.**

A dwelling is overcrowded for the purposes of this Part when the number of persons sleeping in the dwelling is such as to contravene—

- (a) the standard specified in section 325 (the room standard), or
- (b) the standard specified in section 326 (the space standard).

#### **325 The room standard.**

- (1) The room standard is contravened when the number of persons sleeping in a dwelling and the number of rooms available as sleeping accommodation is such that two persons of opposite sexes who are not living together as husband and wife must sleep in the same room.
- (2) For this purpose—
  - (a) children under the age of ten shall be left out of account, and
  - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

#### **326 The space standard.**

- (1) The space standard is contravened when the number of persons sleeping in a dwelling is in excess of the permitted number, having regard to the number and floor area of the rooms of the dwelling available as sleeping accommodation.
- (2) For this purpose—
  - (a) no account shall be taken of a child under the age of one and a child aged one or over but under ten shall be reckoned as one-half of a unit, and
  - (b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a living room or as a bedroom.
- (3) The permitted number of persons in relation to a dwelling is whichever is the less of—
  - (a) the number specified in Table I in relation to the number of rooms in the dwelling available as sleeping accommodation, and
  - (b) the aggregate for all such rooms in the dwelling of the numbers specified in column 2 of Table II in relation to each room of the floor area specified in column 1

No account shall be taken for the purposes of either Table of a room having a floor area of less than 50 square feet.

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TABLE I

<i>Number of rooms</i>	<i>Number of persons</i>
1	2
2	3
3	5
4	7½
5 or more	2 for each room

TABLE II

<i>Floor area of room</i>	<i>Number of persons</i>
110 sq. ft. or more	2
90 sq. ft. or more but less than 110 sq.ft.	1½
70 sq. ft. or more but less than 90 sq. ft.	1
50 sq. ft. or more but less than 70 sq. ft.	½

- (4) The Secretary of State may by regulations prescribe the manner in which the floor area of a room is to be ascertained for the purposes of this section; and the regulations may provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a specified height not exceeding eight feet.
- (5) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A certificate of the local housing authority stating the number and floor areas of the rooms in a dwelling, and that the floor areas have been ascertained in the prescribed manner, is prima facie evidence for the purposes of legal proceedings of the facts stated in it.

#### *Responsibility of occupier*

### **327 Penalty for occupier causing or permitting overcrowding.**

- (1) The occupier of a dwelling who causes or permits it to be overcrowded commits a summary offence, subject to subsection (2).
- (2) The occupier is not guilty of an offence—
  - (a) if the overcrowding is within the exceptions specified in section 328 or 329 (children attaining age of 10 or visiting relatives), or
  - (b) by reason of anything done under the authority of, and in accordance with any conditions specified in, a licence granted by the local housing authority under section 330.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding [F413level 2] on the standard scale and to a further fine not exceeding

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[<sup>F414</sup>one-tenth of the amount corresponding to that level] in respect of every day subsequent to the date on which he is convicted on which the offence continues.

#### Textual Amendments

**F413** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 71(a)**

**F414** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 71(b)**

### 328 Exception:children attaining age of 1 or 10.

- (1) Where a dwelling which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining the age of one or ten, then if the occupier—
  - (a) applies to the local housing authority for suitable alternative accommodation, or
  - (b) has so applied before the date when the child attained the age in question, he does not commit an offence under section 327 (occupier causing or permitting overcrowding), so long as the condition in subsection (2) is met and the occupier does not fail to take action in the circumstances specified in subsection (3).
- (2) The condition is that all the persons sleeping in the dwelling are persons who were living there when the child attained that age and thereafter continuously live there, or children born after that date of any of those persons.
- (3) The exception provided by this section ceases to apply if—
  - (a) suitable alternative accommodation is offered to the occupier on or after the date on which the child attains that age, or, if he has applied before that date, is offered at any time after the application, and he fails to accept it, or
  - (b) the removal from the dwelling of some person not a member of the occupier's family is on that date or thereafter becomes reasonably practicable having regard to all the circumstances (including the availability of suitable alternative accommodation for that person and the occupier fails to require his removal.

### 329 Exception; visiting member of family.

Where the persons sleeping in an overcrowded dwelling include a member of the occupier's family who does not live there but is sleeping there temporarily, the occupier is not guilty of an offence under section 327 (occupier causing or permitting overcrowding) unless the circumstances are such that he would be so guilty if that member of his family were not sleeping there.

### 330 Licence of local housing authority.

- (1) The occupier or intending occupier of a dwelling may apply to the local housing authority for a licence authorising him to permit a number of persons in excess of the permitted number to sleep in the dwelling.
- (2) The authority may grant such a licence if it appears to them that there are exceptional circumstances (which may include a seasonal increase of population) and that it

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is expedient to do so; and they shall specify in the licence the number of persons authorised in excess of the permitted number.

- (3) The licence shall be in the prescribed form and may be granted either unconditionally or subject to conditions specified in it.
- (4) The local housing authority may revoke the licence at their discretion by notice in writing served on the occupier and specifying a period (at least one month from the date of service) at the end of which the licence will cease to be in force.
- (5) Unless previously revoked, the licence continues in force for such period not exceeding twelve months as may be specified in it.
- (6) A copy of the licence and of any notice of revocation shall, within seven days of the issue of the licence or the service of the notice on the occupier, be served by the local housing authority on the landlord (if any) of the dwelling.

#### *Responsibilities of landlord*

### **331 Penalty for landlord causing or permitting overcrowding.**

- (1) The landlord of a dwelling commits a summary offence if he causes or permits it to be overcrowded.
- (2) He shall be deemed to cause or permit it to be overcrowded in the following circumstances, and not otherwise—
  - (a) if he or a person effecting the letting on his behalf had reasonable cause to believe that the dwelling would become overcrowded in circumstances rendering the occupier guilty of an offence;
  - (b) if he or a person effecting the letting on his behalf failed to make inquiries of the proposed occupier as to the number, age and sex of the persons who would be allowed to sleep in the dwelling;
  - (c) if notice is served on him or his agent by the local housing authority that the dwelling is overcrowded in such circumstances as to render the occupier guilty of an offence and he fails to take such steps as are reasonably open to him for securing the abatement of the overcrowding, including if necessary legal proceedings for possession of the dwelling.
- (3) A person committing an offence under this section is liable on conviction to a fine not exceeding [<sup>F415</sup>level 2] on the standard scale and to a further fine not exceeding [<sup>F416</sup>one-tenth of the amount corresponding to that level] in respect of every day subsequent to the day on which he is convicted on which the offence continues.

#### **Textual Amendments**

**F415** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 72\(a\)](#)

**F416** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 72\(b\)](#)

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### **332 Information to be contained in rent book.**

- (1) Every rent book or similar document used in relation to a dwelling by or on behalf of the landlord shall contain—
  - (a) a summary in the prescribed form of the preceding provisions of this Part, and
  - (b) a statement of the permitted number of persons in relation to the dwelling.
- (2) If a rent book or similar document not containing such a summary and statement is used by or on behalf of the landlord, the landlord is guilty of a summary offence and liable on conviction to a fine not exceeding level 1 on the standard scale.
- (3) The local housing authority shall on the application of the landlord or the occupier of a dwelling inform him in writing of the permitted number of persons in relation to the dwelling; and a statement inserted in a rent book or similar document which agrees with information so given shall be deemed to be a sufficient and correct statement.

### **333 Duty to inform local housing authority of overcrowding.**

- (1) Where it comes to the knowledge of the landlord of a dwelling, or of his agent, that the dwelling is overcrowded, then, except in the cases mentioned in subsection (2), the landlord or, as the case may be, the agent shall give notice of the fact of overcrowding to the local housing authority within seven days after that fact first comes to his knowledge.
- (2) The obligation to notify does not arise in the case of overcrowding which—
  - (a) has already been notified to the local housing authority,
  - (b) has been notified to the landlord or his agent by the local housing authority, or
  - (c) is constituted by the use of the dwelling for sleeping by such number of persons as the occupier is authorised to permit to sleep there by a licence in force under section 330 (licence of local housing authority).
- (3) A landlord or agent who fails to give notice in accordance with this section commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

#### *Powers and duties of local housing authority*

### **334 Duty to inspect, report and prepare proposals.**

- (1) If it appears to the local housing authority that occasion has arisen for a report on overcrowding in their district or part of it, or if the Secretary of State so directs, the authority shall—
  - (a) cause an inspection to be made,
  - (b) prepare and submit to the Secretary of State a report showing the result of the inspection and the number of new dwellings required in order to abate the overcrowding, and
  - (c) unless they are satisfied that the dwellings will be otherwise provided, prepare and submit to the Secretary of State proposals for providing the required number of new dwellings.
- (2) Where the Secretary of State gives a direction under subsection (1), he may after consultation with the local housing authority fix dates before which the performance of their functions under that subsection is to be completed.



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**335 Power to require information about persons sleeping in dwelling.**

- (1) The local housing authority may, for the purpose of enabling them to discharge their duties under this Part, serve notice on the occupier of a dwelling requiring him to give them within 14 days a written statement of the number, ages and sexes of the persons sleeping in the dwelling.
- (2) The occupier commits a summary offence if—
  - (a) he makes default in complying with the requirement, or
  - (b) he gives a statement which to his knowledge is false in a material particular, and is liable on conviction to a fine not exceeding level 1 on the standard scale.

**336 Power to require production of rent book.**

- (1) A duly authorised officer of the local housing authority may require an occupier of a dwelling to produce for inspection any rent book or similar document which is being used in relation to the dwelling and is in his custody or under his control.
- (2) On being so required, or within seven days thereafter, the occupier shall produce any such book or document to the officer or at the offices of the authority.
- (3) An occupier who fails to do so commits a summary offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

**337 Power of entry to determine permitted number of persons.**

- (1) A person authorised by the local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of measuring the rooms of a dwelling in order to ascertain for the purposes of this Part the number of persons permitted to use the dwelling for sleeping.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which the entry is authorised.

**338 Notice to abate overcrowding.**

- (1) Where a dwelling is overcrowded in circumstances such as to render the occupier guilty of an offence, the local housing authority may serve on the occupier notice in writing requiring him to abate the overcrowding within 14 days from the date of service of the notice.
- (2) If at any time within three months from the end of that period—
  - (a) the dwelling is in the occupation of the person on whom the notice was served or of a member of his family, and
  - (b) it is overcrowded in circumstances such as to render the occupier guilty of an offence,

the local housing authority may apply to the county court which shall order vacant possession of the dwelling to be given to the landlord within such period, not less than 14 or more than 28 days, as the court may determine.

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- (3) Expenses incurred by the local housing authority under this section in securing the giving of possession of a dwelling to the landlord may be recovered by them from him by action.

### *Supplementary provisions*

#### **339 Enforcement of this Part.**

- (1) The local housing authority shall enforce the provisions of this Part.
- (2) A prosecution for an offence against those provisions may be brought only—
- (a) by the local housing authority, or
  - (b) in the case of a prosecution against the authority themselves, with the consent of the Attorney General.

#### **340 Powers of entry.**

- (1) A person authorised by the local housing authority may at all reasonable times, on giving 24 hours' notice to the occupier, and to the owner if the owner is known, enter any premises for the purpose of survey and examination where it appears to the authority that survey or examination is necessary in order to determine whether any powers under this Part should be exercised.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose for which it is given <sup>F417</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### **Textual Amendments**

**F417** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 73](#)

#### **341 Penalty for obstruction.**

- (1) It is a summary offence <sup>F418</sup>[intentionally] to obstruct an officer of the local housing authority, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding <sup>F419</sup>[level 3] on the standard scale.

#### **Textual Amendments**

**F418** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 74\(1\)](#)

**F419** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 74\(2\)](#)

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### 342 Meaning of “suitable alternative accommodation”.

- (1) In this Part “suitable alternative accommodation”, in relation to the occupier of a dwelling, means a dwelling as to which the following conditions are satisfied—
- (a) he and his family can live in it without causing it to be overcrowded;
  - (b) it is certified by the local housing authority to be suitable to his needs and those of his family as respects security of tenure, proximity to place of work and otherwise, and to be suitable in relation to his means;
  - (c) where the dwelling belongs to the local housing authority, it is certified by them to be suitable to his needs and those of his family as respects accommodation.
- (2) For the purpose of subsection (1)(c) a dwelling containing two bedrooms shall be treated as providing accommodation for four persons, a dwelling containing three bedrooms shall be treated as providing accommodation for five persons and a dwelling containing four bedrooms shall be treated as providing accommodation for seven persons.

### 343 Minor definitions.

In this Part—

“agent”, in relation to the landlord of a dwelling—

- (a) means a person who collects rent in respect of the dwelling on behalf of the landlord, or is authorised by him to do so, and
- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier’s remuneration, includes a person who pays remuneration on behalf of the employer, or is authorised by him to do so;

“dwelling” means premises used or suitable for use as a separate dwelling;

“landlord”, in relation to a dwelling—

- (a) Means the immediate landlord of an occupier of the dwelling, and
- (b) in the case of a dwelling occupied under a contract of employment under which the provision of the dwelling for his occupation forms part of the occupier’s remuneration, includes the occupier’s employer;

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

### 344 Index of defined expressions:Part X

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

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agent (in relation to the landlord of a dwelling)	section 343
district (of a local housing authority)	section 2(1)

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dwelling	section 343
landlord	sections 343 and 621
local housing authority	section 1, 2(2)
overcrowding (and related expressions)	section 324
owner	section 343
permitted number (of persons sleeping in a dwelling)	section 326
prescribed	section 614
standard scale (in reference to the maximum fine on summary conviction)	section 622
suitable alternative accommodation	section 342

## PART XI

### HOUSES IN MULTIPLE OCCUPATION

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

**C108** Pt. XI (ss. 345–400): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 65\(2\)\(4\)](#)

**C109** Pt. XI (ss. 345–400) applied (17.12.1996) by [1996 c. 53, s. 90\(b\)](#); S.I. 1996/2842, [art. 3](#) (with transitional, supplementary and saving provisions in [arts. 5-8](#))

#### *Introductory*

#### **345 Meaning of “multiple occupation”.**

In this Part “house in multiple occupation” means a house which is occupied by persons who do not form a single household.

[<sup>F420</sup>(2) For the purposes of this section “house”, in the expression “house in multiple occupation”, includes any part of a building which—

- (a) apart from this subsection would not be regarded as a house; and
- (b) was originally constructed or subsequently adapted for occupation by a single household;

and any reference in this Part to a flat in multiple occupation is a reference to a part of a building which, whether by virtue of this subsection or without regard to it, constitutes a house in multiple occupation.]

#### **Textual Amendments**

**F420** S. 345(2) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 165\(1\)\(c\)](#), [Sch. 9 Pt. III para. 44](#)

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### Registration schemes

#### 346 Registration schemes.

- (1) The local housing authority may make and submit to the Secretary of State for confirmation by him a registration scheme authorising the authority to compile and maintain a register for their district of—
  - (a) houses in multiple occupation, . . . <sup>F421</sup>
  - (b) . . . . . <sup>F421</sup>and the Secretary of State may if he thinks fit confirm the scheme, with or without modification.
- (2) A registration scheme need not be for the whole of the authority's district and need not be for every description of house . . . <sup>F422</sup> falling within [<sup>F423</sup>paragraph (a)] of subsection (1).
- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to notify the authority of the fact that a house . . . <sup>F424</sup> appears to be registrable and to give the authority as regards such a house . . . <sup>F424</sup> all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards a house . . . <sup>F424</sup>.
- (4) A registration scheme shall not come into force before it has been confirmed but subject to that comes into force on such date as may be fixed by the scheme or, if no date is so fixed, at the expiration of one month after it is confirmed.
- (5) A registration scheme may vary or revoke a previous registration scheme; and the local housing authority may at any time, with the consent of the Secretary of State, by order revoke a registration scheme.
- (6) [<sup>F425</sup>Subject to section 374(4)] a person who contravenes or fails to comply with a provision of a registration scheme commits a summary offence and is liable on conviction to a fine not exceeding, [<sup>F426</sup>level 3] on the standard scale [<sup>F427</sup>and, if the contravention or failure continues, he commits a further summary offence and is liable on conviction to a fine not exceeding one-tenth of the amount corresponding to that level for every day or part of a day during which the contravention or failure continues].

#### Textual Amendments

- F421** Word “and” and s. 346(1)(b) repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 45\(1\)](#), [Sch. 12 Pt. II](#)
- F422** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 45\(2\)](#), [Sch. 12 Pt. II](#)
- F423** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 45\(2\)](#)
- F424** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 45\(3\)](#), [Sch. 12 Pt. II](#)

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- F425** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 45(4)(a)**
- F426** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 45(4)(b)**
- F427** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 45(4)(c)**

VALID FROM 01/10/1996

**[<sup>F428</sup>346A] Contents of registration scheme.**

- (1) A registration scheme shall make it the duty of such person as may be specified by the scheme to register a house to which the scheme applies and to renew the registration as and when required by the scheme.
- (2) A registration scheme shall provide that registration under the scheme—
  - (a) shall be for a period of five years from the date of first registration, and
  - (b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of five years at a time.
- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to give the authority as regards a house all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards a house.
- (4) A registration scheme shall, subject to subsection (5)—
  - (a) require the payment on first registration of a reasonable fee of an amount determined by the local housing authority, and
  - (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.
- (5) The Secretary of State may by order make provision as to the fee payable on registration—
  - (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
  - (b) specifying cases in which no fee is payable.
- (6) An order under subsection (5)—
  - (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

**F428** Ss. 346-346B substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 346 by 1996 c. 52, s. 65(1) (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

VALID FROM 01/10/1996

### [<sup>F429</sup>346B] Model schemes and confirmation of schemes.

- (1) The Secretary of State may prepare model registration schemes.
- (2) Model registration schemes may be prepared with or without control provisions (see section 347) or special control provisions (see section 348B); and different model schemes may be prepared for different descriptions of authorities and for different areas.
- (3) A registration scheme which conforms to a model scheme—
  - (a) does not require confirmation by the Secretary of State, and
  - (b) comes into force on such date (at least one month after the making of the scheme) as may be specified in the scheme.
- (4) Any other registration scheme does not come into force unless and until confirmed by the Secretary of State.
- (5) The Secretary of State may if he thinks fit confirm such a scheme with or without modifications.
- (6) A scheme requiring confirmation shall not come into force before it has been confirmed but, subject to that, comes into force on such date as may be specified in the scheme or, if no date is specified, one month after it is confirmed.]

### Textual Amendments

**F429** Ss. 346-346B substituted (1.10.1996 for specified purposes otherwise 3.3.1997) for s. 346 by 1996 c. 52, s. 65(1) (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

### 347 Control provisions.

- (1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—
  - (a) the house is registered, and
  - (b) the number of households or persons occupying it does not exceed the number registered for it.
- (2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.
- (3) Control provisions shall not apply—
  - (a) where the persons occupying the house form only two households, or

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- (b) where, apart from one household (if any), the house is occupied by no more than four persons;
- and shall not affect the continued occupation of a house by the number of households or persons occupying it when the provisions come into force.
- (4) [<sup>F430</sup>Where a person is] convicted of an offence under section 346(6) (contravention or failure to comply with provisions of registration scheme) consisting of a contravention of so much of control provisions as relates—
- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
- (b) to occupation of a house which is registered by more households or persons than the registration permits,
- [<sup>F431</sup>the said section 346(6) shall have effect as if for the words “level 3” there were substituted “level 4”].

#### Textual Amendments

**F430** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 46\(a\)](#)

**F431** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 46\(b\)](#)

### 348 Control provisions: decisions and appeals.

- (1) Control provisions may enable the local housing authority—
- (a) to refuse to register or to vary the registration of a house on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted by virtue of the registration or variation;
- (b) to refuse to register a house on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
- (c) to require as a condition of registration or of varying the registration of a house that such works are executed as will make the house suitable for such occupation as will be permitted by virtue of the registration or variation.
- (2) Control provisions shall provide that where the local housing authority refuse to register or vary the registration of a house, or require the execution of works as a condition of doing so, they shall give the applicant a written statement of their reasons.
- (3) Where a person has applied for the registration or the variation of the registration of a house in pursuance of control provisions and the local housing authority—
- (a) notify him that they refuse to register the house or to vary the registration in accordance with the application, or
- (b) notify him that they require the execution of works as a condition of registering the house or varying the registration in accordance with the application, or
- (c) do not within five weeks after receiving the application, or such longer period as may be agreed in writing between the authority and the applicant, register the house or vary the registration in accordance with the application,



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the applicant may, within 21 days of being so notified or of the end of the period mentioned in paragraph (c), or such longer period as the authority may in writing allow, appeal to the county court.

- (4) On such an appeal the court may confirm, reverse or vary the decision of the authority; and where the decision of the authority was a refusal to register or vary the registration of a house, the court may direct them to register or vary the registration either in accordance with the application as made or in accordance with that application as varied in such manner as the court may direct.

VALID FROM 01/10/1996

**[<sup>F432</sup>348A Control provisions: other decisions and appeals.**

- (1) Control provisions may enable the local housing authority at any time during a period of registration (whether or not an application has been made)—
- (a) to alter the number of households or persons for which a house is registered or revoke the registration on the ground that the house is unsuitable and incapable of being made suitable for such occupation as is permitted by virtue of the registration; or
  - (b) to alter the number of households or persons for which a house is registered or revoke the registration unless such works are executed within a specified time as will make the house in question suitable for such occupation as is permitted by virtue of the registration.
- (2) Control provisions which confer on a local housing authority any such power as is mentioned in subsection (1) shall provide that the authority shall, in deciding whether to exercise the power, apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.
- (3) Control provisions may enable the local housing authority to revoke a registration if they consider that—
- (a) the person having control of the house or the person managing it is not a fit and proper person, or
  - (b) there has been a breach of conditions relating to the management of the house.
- (4) Control provisions shall also provide that the local housing authority shall—
- (a) notify the person having control of a house and the person managing it of any decision by the authority to exercise a power mentioned in subsection (1) or (3) in relation to the house, and
  - (b) at the same time give them a written statement of the authority's reasons.
- (5) A person who has been so notified may within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.
- (6) On appeal the court may confirm, reverse or vary the decision of the authority.]

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### Textual Amendments

**F432** Ss. 348, 348A substituted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 66 (with s. 70); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

VALID FROM 03/03/1997

### [<sup>F433</sup> 348B] Special control provisions.

- (1) A registration scheme which contains control provisions may also contain special control provisions, that is, provisions for preventing houses in multiple occupation, by reason of their existence or the behaviour of their residents, from adversely affecting the amenity or character of the area in which they are situated.
- (2) Special control provisions may provide for the refusal or revocation of registration, for reducing the number of households or persons for which a house is registered and for imposing conditions of registration.
- (3) The conditions of registration may include conditions relating to the management of the house or the behaviour of its occupants.
- (4) Special control provisions may authorise the revocation of registration in the case of—
  - (a) occupation of the house by more households or persons than the registration permits, or
  - (b) a breach of any condition imposed in pursuance of the special control provisions,
 which is due to a relevant management failure.
- (5) Special control provisions shall not authorise the refusal of—
  - (a) an application for first registration of a house which has been in operation as a house in multiple occupation since before the introduction by the local housing authority of a registration scheme with special control provisions, or
  - (b) any application for renewal of registration of a house previously registered under such a scheme,
 unless there has been a relevant management failure.
- (6) Special control provisions may provide that in any other case where an application is made for first registration of a house the local housing authority may take into account the number of houses in multiple occupation in the vicinity in deciding whether to permit or refuse registration.]

### Textual Amendments

**F433** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

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VALID FROM 03/03/1997

**[<sup>F434</sup>348C Special control provisions: general provisions as to decisions and appeals.**

- (1) Special control provisions shall provide that the local housing authority shall give a written statement of their reasons to the applicant where they refuse to grant his application for first registration, or for a renewal or variation of a registration, or impose conditions of registration on such an application.
- (2) Special control provisions shall provide that the authority shall give written notice to the person having control of the house and the person managing it of any decision by the authority—
  - (a) to vary the conditions of registration (otherwise than on an application to which subsection (1) applies), or
  - (b) to revoke the registration of the house,and at the same time give them a written statement of the authority's reasons.
- (3) Where in accordance with special control provisions the local housing authority—
  - (a) notify an applicant that they refuse to grant his application for first registration or for the renewal or variation of a registration,
  - (b) notify such an applicant of the imposition of conditions of registration, or
  - (c) give notice to the person having control or the person managing the house of any such decision as is mentioned in subsection (2),that person may, within 21 days of being so notified, or such longer period as the authority may in writing allow, appeal to the county court.
- (4) If on appeal it appears to the court—
  - (a) that there has been any informality, defect or error in, or in connection with, the authority's decision, or
  - (b) that the authority acted unreasonably,the court may reverse or vary the decision of the authority.
- (5) In so far as an appeal is based on the ground mentioned in subsection (4)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (6) Where the decision of the authority was a refusal—
  - (a) to grant an application for first registration of a house, or
  - (b) for the renewal or variation of the registration,the court may direct the authority to grant the application as made or as varied in such manner as the court may direct.
- (7) Where the decision of the authority was to impose conditions of registration, the court may direct the authority to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.]

**Textual Amendments**

**F434** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

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VALID FROM 03/03/1997

**[<sup>F435</sup>348D] Special control provisions: occupancy directions.**

- (1) Special control provisions may provide that where the local housing authority decide that the registration of a house should be revoked the authority may direct that the level of occupation of the house be reduced, within such period of not less than 28 days as they may direct, to a level such that the registration scheme does not apply.  
Such a direction is referred to in this Part as an “occupancy direction”.
- (2) Special control provisions shall provide that the authority shall only make an occupancy direction if it appears to the authority that there has been a relevant management failure resulting in a serious adverse effect on the amenity or character of the area in which the house is situated.
- (3) In considering whether to make an occupancy direction the authority shall take into account the interests of the occupants of the house and the person having control of the house as well as the interests of local residents and businesses.
- (4) Special control provisions may require the person having control of the house, and the person managing it, to take all reasonably practicable steps to comply with an occupancy direction.
- (5) Nothing in Part I of the <sup>M68</sup>Housing Act 1988 prevents possession being obtained by any person in order to comply with an occupancy direction.
- (6) Nothing in this section affects any liability in respect of any other contravention or failure to comply with control provisions or special control provisions.]

**Textual Amendments**

**F435** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

**Marginal Citations**

**M68** 1988 c. 50.

VALID FROM 03/03/1997

**[<sup>F436</sup>348E] Special control provisions: decisions and appeals relating to occupancy directions.**

- (1) Special control provisions shall provide that where the local housing authority make an occupancy direction in respect of a house they shall give written notice of the direction to the person having control of the house and the person managing it and at the same time give them a written statement of the authority’s reasons.
- (2) A person aggrieved by an occupancy direction may, within 21 days after the date of the service of notice as mentioned in subsection (1), appeal to the county court.
- (3) If on appeal it appears to the court—

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- (a) that there has been any informality, defect or error in, or in connection with, the authority's decision, or
  - (b) that the authority acted unreasonably,
- the court may make such order either confirming, quashing or varying the notice as it thinks fit.
- (4) In so far as an appeal is based on the ground mentioned in subsection (3)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) If an appeal is brought the direction does not become operative until—
- (a) a decision on the appeal confirming the direction (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
  - (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the direction (with or without variation).
- (6) For this purpose the withdrawal of an appeal has the same effect as a decision confirming the direction or decision appealed against.]

#### Textual Amendments

**F436** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

VALID FROM 03/03/1997

#### [<sup>F437</sup> 348F] Special control provisions: “relevant management failure”.

A “relevant management failure” for the purposes of sections 348B to 348E (special control provisions) means a failure on the part of the person having control of, or the person managing, a house in multiple occupation to take such steps as are reasonably practicable to prevent the existence of the house or the behaviour of its residents from adversely affecting the amenity or character of the area in which the house is situated, or to reduce any such adverse effect.]

#### Textual Amendments

**F437** Ss. 348B-348F inserted (3.3.1997) by 1996 c. 52, s. 67(1) (with s. 70); S.I. 1997/350, art. 2

VALID FROM 03/03/1997

#### [<sup>F438</sup> 348G] Offences in connection with registration schemes.

- (1) A person who contravenes or fails to comply with a provision of a registration scheme commits an offence.
- (2) A person who commits an offence under this section consisting of a contravention of so much of control provisions as relates—

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- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
  - (b) to occupation of a house which is registered by more households or persons than the registration permits,
- is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person who commits an offence under this section consisting of a contravention of so much of special control provisions as requires all reasonably practicable steps to be taken to comply with an occupancy direction is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person who commits any other offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

#### Textual Amendments

**F438** S. 348G inserted (3.3.1997) by 1996 c. 52, s. 68(1) (with s. 70); S.I. 1997/350, art. 2

### 349 Steps required to inform public about scheme.

- (1) The local housing authority shall publish notice of their intention to submit a registration scheme to the Secretary of State for confirmation in one or more newspapers circulating in their district at least one month before the scheme is submitted for confirmation.
- (2) As soon as a registration scheme is confirmed by the Secretary of State, the local housing authority shall publish in one or more newspapers circulating in their district a notice—
  - (a) stating the fact that a registration scheme has been confirmed, and
  - (b) describing any steps which will have to be taken under the scheme by those concerned with registrable houses . . . <sup>F439</sup> (other than steps which have only to be taken after a notice from the authority), and
  - (c) naming a place where a copy of the scheme may be seen at all reasonable hours.
- (3) A copy of a registration scheme confirmed by the Secretary of State—
  - (a) shall be printed and deposited at the offices of the local housing authority by whom it was made, and
  - (b) shall at all reasonable hours be open to public inspection without payment; and a copy of the scheme shall on application be furnished to any person on payment of such sum, not exceeding 5p for every copy, as the authority may determine.
- (2) If the local housing authority revoke a registration scheme by order they shall publish notice of the order in one or more newspapers circulating in their district.

#### Textual Amendments

**F439** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 47, Sch. 12 Pt. II

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### 350 Power to require information for purposes of scheme.

- (1) The local housing authority may—
  - (a) for the purpose of ascertaining whether a house . . . <sup>F440</sup> is registrable, and
  - (b) for the purpose of ascertaining the particulars to be entered in the register as regards a house . . . <sup>F440</sup>,  
require a person who has an estate or interest in, or who lives in, the house . . . <sup>F440</sup> to state in writing any information in his possession which the authority may reasonably require for that purpose.
- (2) A person who, having been required in pursuance of this section to give information to a local housing authority, fails to give the information, or knowingly makes a mis-statement in respect of it, commits a summary offence and is liable on conviction to a fine not exceeding
  - [<sup>F441</sup>(a)] level 2 on the standard scale [<sup>F442</sup> in the case of such a failure; or
  - (b) level 3 on the standard scale in the case of such a mis-statement].

#### Textual Amendments

**F440** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 48(1), **Sch. 12 Pt. II**

**F441** “(a)” inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch 9 Pt. III para. 48(2)**

**F442** Words beginning “in the case” and s. 350(2)(b) added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 48(2)**

### 351 Proof of scheme and contents of register.

- (1) If there is produced a printed copy of a registration scheme purporting to be made by a local housing authority, upon which there is endorsed a certificate purporting to be signed by the proper officer of the authority stating—
  - (a) that the scheme was made by the authority,
  - (b) that the copy is a true copy of the scheme, and
  - (c) that on a specified date the scheme was confirmed by the Secretary of State, the certificate is prima facie evidence of the facts so stated without proof of the handwriting or official position of the person by whom it purports to be signed.
- (2) A document purporting to be a copy of an entry in a register kept under a registration scheme and to be certified as a true copy by the proper officer of the authority is prima facie evidence of the entry without proof of the handwriting or official position of the person by whom it purports to be signed.

*Fitness for the number of occupants*

### 352 Power to require execution of works to render premises fit for number of occupants.

- (1) [<sup>F443</sup>Subject to section 365] the local housing authority may serve a notice under this section where [<sup>F444</sup> in the opinion of the authority, a house in multiple occupation fails to meet one or more of the requirements in paragraphs (a) to (e) of subsection (1A)

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and, having regard to the number of individuals or households or both for the time being accommodated on the premises, by reason of that failure the premises are not reasonably suitable for occupation by those individuals or households.

(1A) The requirements in respect of a house in multiple occupation referred to in subsection (1) are the following, that is to say,—

- (a) there are satisfactory facilities for the storage, preparation and cooking of food including an adequate number of sinks with a satisfactory supply of hot and cold water;
- (b) it has an adequate number of suitably located water-closets for the exclusive use of the occupants;
- (c) it has, for the exclusive use of the occupants, an adequate number of suitably located fixed baths or showers and wash-hand basins each of which is provided with a satisfactory supply of hot and cold water;
- (d) subject to section 365, there are adequate means of escape from fire: and
- (e) there are adequate other fire precautions.]

(2) [<sup>F445</sup>Subject to subsection (2A)] the notice shall specify the works which in the opinion of the authority are required for rendering the [<sup>F446</sup>house] reasonably suitable—

- (a) for occupation by the individuals and households for the time being accommodated there, or
- (b) for a smaller number of individuals or households and the number of individuals or households, or both, which, in the opinion of the authority, the [<sup>F446</sup>house] could reasonably accommodate if the works were carried out [<sup>F447</sup>but the notice shall not specify any works to any premises outside the house].

[<sup>F448</sup>(2A) Where the authority have exercised or propose to exercise their powers under section 368 to secure that part of the house is not used for human habitation, they may specify in the notice such work only as in their opinion is required to meet such of the requirements in subsection (1A) as may be applicable if that part is not so used.]

(3) The notice may be served—

- (a) on the person having control of the house, or
- [<sup>F449</sup>(b) on the person managing the house;]

and the authority shall inform any other person who is to their knowledge an owner, lessee [<sup>F450</sup>occupier] or mortgagee of the house of the fact that the notice has been served.

(4) The notice shall require the person on whom it is served to execute the works specified in the notice [<sup>F451</sup>as follows, namely,—

- (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
- (b) to complete those works within such reasonable period as is so specified.]

(5) If the authority are satisfied that—

- (a) after the service of a notice under this section the number of individuals living on the premises has been reduced to a level which will make the works specified in the notice unnecessary, and



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- (b) that number will be maintained at or below that level, whether in consequence of the exercise of the authority’s powers under section 354 (power to limit number of occupants of house) or otherwise,

they may withdraw the notice by notifying that fact in writing to the person on whom the notice was served, but without prejudice to the issue of a further notice.

[<sup>F452</sup>(5A) A notice served under this section is a local land charge.

(5B) Each local housing authority shall—

- (a) maintain a register of notices served by the authority under subsection (1) after the coming into force of this subsection;
- (b) ensure the register is open to inspection by the public free of charge at all reasonable hours; and
- (c) on request, and on payment of any such reasonable fee as the authority may require, supply copies of entries in the register to any person.]

(6) ..... <sup>F453</sup>

#### Textual Amendments

- F443** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(1)**
- F444** Words beginning “in the opinion” and s. 352(1A) substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(1)** it is provided that in s. 352(1)
- F445** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(2)**
- F446** Word substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(2)**
- F447** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(2)**
- F448** S. 352(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(3)**
- F449** S. 352(3)(b) substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(4)**
- F450** Word inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(4)**
- F451** Words beginning “as follows,” and s. 352(4)(a)(b) substituted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 50(a)**
- F452** S. 352(5A)(5B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 49(5)**
- F453** S. 352(6) repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 49(6), **Sch. 12 Pt. II**

VALID FROM 01/10/1996

[<sup>F454</sup>~~352A~~**Recovery of expenses of notice under s.352.**

- (1) A local housing authority may, as a means of recovering certain administrative and other expenses incurred by them in serving a notice under section 352, make such reasonable charge as they consider appropriate.

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- (2) The expenses are the expenses incurred in—
  - (a) determining whether to serve a notice under that section,
  - (b) identifying the works to be specified in the notice, and
  - (c) serving the notice.
- (3) The amount of the charge shall not exceed such amount as is specified by order of the Secretary of State.
- (4) A charge under this section may be recovered by the authority from any person on whom the notice under section 352 is served.
- (5) The provisions of Schedule 10 apply to the recovery by the authority of a charge under this section as they apply to the recovery of expenses incurred by the authority under section 375 (expenses of carrying out works required by notice).
- (6) An order under this section—
  - (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), 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) This section has effect subject to any order under section 353(6) (power of court on appeal against s.352 notice).]

#### Textual Amendments

**F454** S. 352A inserted (1.10.1996 for specified purposes otherwise 3.3.1997) by 1996 c. 52, s. 72(1) (with s. 72(3)); S.I. 1996/2402, art. 4; S.I. 1997/350, art. 2

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

**C110** S. 352A restricted (3.3.1997) by S.I. 1997/228, art. 2

### 353 Appeal against notice under s. 352.

- (1) A person on whom a notice is served under section 352 (notice requiring works to render premises fit for number of occupants), or any other person who is an owner, lessee or mortgagee of the premises to which the notice relates, may, within 21 days from the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
  - (a) that the condition of the premises did not justify the authority, having regard to the [F455 requirements set out in subsection (1A)] of that section, in requiring the execution of the works specified in the notice;
  - (b) in the case of a notice under subsection (2)(b) of that section (notice requiring works to render premises fit for smaller number of occupants), that the number of individuals or households, or both, specified in the notice is unreasonably low;
  - (c) that there has been some informality, defect or error in, or in connection with, the notice;

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- (d) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - [<sup>F456</sup>(dd) that the date specified for the beginning of the works is not reasonable]
  - (e) that the time within which the works are to be executed is not reasonably sufficient for the purpose; or
  - (f) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as holder of an estate or interest in the premises derive a benefit from their execution, and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(c) the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) If on an appeal the court is satisfied that—
- (a) the number of persons living in the premises has been reduced, and
  - (b) adequate steps have been taken (by the exercise of the local housing authority's powers under section 354 (power to limit number of occupants of house) or otherwise) to prevent that number being again increased.
- the court may if it thinks fit revoke the notice or vary the list or works specified in the notice.
- (5) Where the grounds on which an appeal is brought include the ground mentioned in subsection (2)(f), the court, if satisfied that the other person referred to in the notice of appeal has had proper notice of the appeal, may on the hearing of the appeal make such order as it thinks fit with respect to payment to be made by him to the appellant or, where the works are executed by the local housing authority, to the authority.

#### Textual Amendments

- F455** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 51\(a\)](#)
- F456** [S. 353\(2\)\(dd\)](#) inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 51\(b\)](#)

### 354 Power to limit number of occupants of house.

- (1) The local housing authority may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or further notice under section 352 (notice requiring execution of works to render house fit for number of occupants)—
- (a) fix as a limit for the house what is in their opinion the highest number of individuals or households, or both, who should, having regard to the [<sup>F457</sup>requirements set out in subsection (1A)] of that section, occupy the house in its existing condition, and
  - (b) give a direction applying that limit to the house.
- (2) The authority may also exercise the powers conferred by subsection (1) in relation to a part of a house; and the authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

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- (3) Not less than seven days before giving a direction under this section, the authority shall—
- (a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and
  - (b) post such a notice in some position in the house where it is accessible to those living in the house,
- and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.
- (4) The authority shall within seven days from the giving of the direction—
- (a) serve a copy of the direction on an owner of the house and on every person who is to their knowledge a lessee of the house, and
  - (b) post a copy of the direction in some position in the house where it is accessible to those living in the house.
- (5) A direction may be given notwithstanding the existence of a previous direction laying down a higher maximum for the same house or part of a house.
- (6) Where the local housing authority have in pursuance of section 352 served a notice specifying the number of individuals or households, or both, which in the opinion of the authority the house could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number in fixing a limit under subsection (1) as respects the house.
- (7) The powers conferred by this section—
- (a) are exercisable whether or not a notice has been given under section 352, and
  - (b) are without prejudice to the powers conferred by section 358 (overcrowding notices).

#### Textual Amendments

**F457** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 52](#)

### 355 Effect of direction under s. 354.

- (1) Where a direction under section 354 is given (direction limiting number of occupants), it is the duty of—
- (a) the occupier for the time being of the house, or part of a house, to which the direction relates, and
  - (b) any other person who is for the time being entitled or authorised to permit individuals to take up residence in that house or part,
- not to permit the number of individuals or households occupying that house or part to which the direction relates to increase to a number above the limit specified in the direction or, if it is for the time being above that number, not to permit it to increase further.
- (2) A person who knowingly fails to comply with the requirements imposed on him by subsection (1) commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

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### **356 Power to require information about occupation of house.**

- (1) The local housing authority may from time to time serve on the occupier of a house or part of a house in respect of which there is in force a direction under section 354 (direction limiting number of occupants) a notice requiring him to furnish them within seven days with a statement in writing giving all or any of the following particulars—
  - (a) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be;
  - (b) the number of families or households to which those individuals belong;
  - (c) the names of those individuals and of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) An occupier who makes default in complying with the requirements of a notice under this section, or furnishes a statement which to his knowledge is false in a material particular, commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

### **357 Revocation or variation of direction under s. 354.**

- (1) The local housing authority may, on the application of a person having an estate or interest in a house in respect of which a direction is in force under section 354 (direction limiting number of occupants), having regard to any works which have been executed in the house or any other change of circumstances, revoke the direction or vary it so as to allow more people to be accommodated in the house.
- (2) If the authority refuse such an application or do not within 35 days from the making of such an application, or such further period as the applicant may in writing allow, notify the applicant of their decision, the applicant may appeal to the county court.
- (3) On an appeal the court may revoke the direction or vary it in any manner in which it might have been varied by the authority.

### *Overcrowding*

### **358 Service of overcrowding notice.**

- (1) Where it appears to the local housing authority in the case of a house in multiple occupation—
  - (a) that an excessive number of persons is being accommodated on the premises, having regard to the rooms available, or
  - (b) that it is likely that an excessive number of persons will be accommodated on the premises, having regard to the rooms available.they may serve an overcrowding notice on the occupier of the premises or on the person managing the premises, or on both.
- (2) At least seven days before serving an overcrowding notice, the local housing authority shall—
  - (a) inform the occupier of the premises and any person appearing to them to be managing the premises, in writing, of their intention to do so, and
  - (b) ensure that, so far as is reasonably possible, every person living in the premises is informed of that intention;

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and they shall afford those persons an opportunity of making representations regarding their proposal to serve the notice.

- (3) If no appeal is brought under section 362, the overcrowding notice becomes operative at the end of the period of 21 days from the date of service, and is final and conclusive as to matters which could have been raised on such an appeal.
- (4) A person who contravenes an overcrowding notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

### **359 Contents of overcrowding notice.**

- (1) An overcrowding notice shall state in relation to every room on the premises—
  - (a) what in the opinion of the local housing authority is the maximum number of persons by whom the room is suitable to be occupied as sleeping accommodation at any one time, or
  - (b) that the room is in their opinion unsuitable to be occupied as sleeping accommodation;

and the notice may specify special maxima applicable where some or all of the persons occupying the room are under such age as may be specified in the notice.

- (2) An overcrowding notice shall contain either—
  - (a) the requirement set out in section 360 (not to permit excessive number of persons to sleep on premises), or
  - (b) the requirement set out in section 361 (not to admit new residents if number of persons is excessive);

and where the local housing authority have served on a person an overcrowding notice containing the latter requirement, they may at any time withdraw the notice and serve on him in its place an overcrowding notice containing the former requirement.

### **360 Requirement as to overcrowding generally.**

- (1) The first requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—
  - (a) permitting a room to be occupied as sleeping accommodation otherwise than in accordance with the notice, or
  - (b) permitting persons to occupy the premises as sleeping accommodation in such numbers that it is not possible to avoid persons of opposite sexes who are not living together as husband and wife sleeping in the same room.
- (2) For the purposes of subsection (1)(b)—
  - (a) children under the age of 12 shall be left out of account, and
  - (b) it shall be assumed that the persons occupying the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### **361 Requirement as to new residents.**

- (1) The second requirement referred to in section 359(2) is that the person on whom the notice is served must refrain from knowingly—

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- (a) permitting a room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the notice, or
- (b) permitting a new resident to occupy any part of the premises as sleeping accommodation if that is not possible without persons of opposite sexes who are not living together as husband and wife sleeping in the same room;

and for this purpose “new resident” means a person who was not living in the premises immediately before the notice was served.

(2) For the purposes of subsection (1)(b)—

- (a) children under the age of 12 shall be left out of account, and
- (b) it shall be assumed that the persons occupying any part of the premises as sleeping accommodation sleep only in rooms for which a maximum is set by the notice and that the maximum set for each room is not exceeded.

### **362 Appeal against overcrowding notice.**

(1) A person aggrieved by an overcrowding notice may, within 21 days after the date of service of the notice, appeal to the county court, which may make such order either confirming, quashing or varying the notice as it thinks fit.

(2) If an appeal is brought the notice does not become operative until—

- (a) a decision on the appeal confirming the order (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
- (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the order (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

### **363 Revocation and variation of notice.**

(1) The local housing authority may at any time, on the application of a person having an estate or interest in the premises—

- (a) revoke an overcrowding notice, or
- (b) vary it so as to allow more people to be accommodated on the premises.

(2) If the authority refuse such an application, or do not within 35 days from the making of the application (or such further period as the applicant may in writing allow) notify the applicant of their decision, the applicant may appeal to the county court.

(3) On an appeal the court may revoke the notice or vary it in any manner in which it might have been varied by the local housing authority.

### **364 Power to require information where notice in force.**

(1) The local housing authority may from time to time serve on the occupier of premises in respect of which an overcrowding notice is in force a notice requiring him to furnish them within seven days with a statement in writing giving any of the following particulars—

- (a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation;

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- (b) the number of families or households to which those individuals belong;
  - (c) the names of those individuals and of the heads of each of those families or households;
  - (d) the rooms used by those individuals and families or households respectively.
- (2) A person who—
- (a) knowingly fails to comply with the requirements of such a notice, or
  - (b) furnishes a statement which he knows to be false in a material particular,
- commits a summary offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

### 365 Means of escape from fire; general provisions as to exercise powers.

[<sup>F458</sup>(1) In any case where—

- (a) the local housing authority have the power to serve a notice under subsection (1) of section 352 in respect of a house in multiple occupation, and
- (b) the reason, or one of the reasons, by virtue of which that power arises is a failure to meet the requirement in paragraph (d) of subsection (1A) of that section,

the authority shall in addition have the power for that reason to accept an undertaking or make a closing order under section 368 in respect of the house.

- (2) Where by virtue of subsection (1) the local housing authority have powers in respect of a house in multiple occupation to serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) and to accept an undertaking or make a closing order under section 368, they may exercise such of those powers as appear to them appropriate; and where the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection, the authority shall be under a duty to so exercise those powers.
- (2A) The local housing authority shall not serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) or accept an undertaking or make a closing order under section 368 if the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection.]
- (3) Before serving a notice under section [<sup>F459</sup>352 for the reason mentioned in subsection (1)(b)] or accepting an undertaking or making a closing order under section 368, the local housing authority shall consult with the fire authority concerned.
- (4) An order under subsection (2) [<sup>F460</sup>or 2(A)]—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F461</sup>(5) Nothing in this section affects the power of the local housing authority to serve a notice under subsection (1) of section 352 if the house also fails to meet one or more of the requirements in paragraphs (a) to (c) and (e) of subsection (1A) of that section.]



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#### Textual Amendments

- F458** S. 365(1)–(2A) substituted for S. 365(1)(2) by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(1)**
- F459** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(2)**
- F460** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(3)**
- F461** S.365(5) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 53(3)**

**366,** <sup>F462</sup> .....  
**367.**

#### Textual Amendments

- F462** Ss. 366, 367 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 54, **Sch. 12 Pt. II**

### **368 Means of escape from fire: power to secure that part of house not used for human habitation.**

- (1) [<sup>F463</sup>Subject to section 365] if it appears to the local housing authority that the means of escape from fire would be adequate if part of the house were not used for human habitation, they may secure that that part is not so used.
- (2) For that purpose, the authority may, if after consultation with any owner or mortgagee they think fit to do so, accept an undertaking from him that that part will not be used for human habitation without the permission of the authority.
- (3) A person who, knowing that such an undertaking has been accepted—
  - (a) uses the part of the house to which the undertaking relates in contravention of the undertaking, or
  - (b) permits that part of the house to be so used,commits a summary offence and is liable on conviction to a fine not exceeding level 5 on the standard scale; and if he so uses it or permits it to be so used after conviction, he commits a further summary offence and is liable on conviction to a fine not exceeding [<sup>F464</sup>one-tenth of the amount corresponding to that level] for every day or part of a day on which he so uses it or permits it to be so used.
- (4) If the local housing authority do not accept an undertaking under subsection (2) with respect to a part of a house, or where they have accepted such an undertaking and that part of the house is at any time used in contravention of the undertaking, the authority may make a closing order with respect to that part of the house.
- (5) The provisions of Part IX apply to a closing order under subsection (4) as they apply to a closing order made under [<sup>F465</sup>section 264], but with [<sup>F466</sup>with the following modifications—

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- (a) the reference in section 278(1) (premises rendered fit) to the house in multiple occupation shall be construed as a reference to the part of the house in respect of which the closing order under subsection (4) is made;]
  - [<sup>F467</sup>(b)] the ground on which the authority are required to determine the order under section 278(1) (premises rendered fit) shall be that the authority are satisfied that the means of escape from fire with which the house is provided is adequate (owing to a change of circumstances) and will remain adequate if the part of the house with respect to which the order was made is again used for human habitation [<sup>F468</sup>and
  - (c) section 279 (substitution of demolition orders) shall be omitted].
- (6) Nothing in the Rent Acts [<sup>F469</sup>or Part I of the Housing Act 1988] prevents possession being obtained of a part of a house which in accordance with an undertaking in pursuance of this section cannot for the time being be used for human habitation.

#### Textual Amendments

- F463** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 55(1)**
- F464** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 55(2)**
- F465** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 55(3)(a)**
- F466** Words beginning “with the” and s. 368(5)(a) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 55(3)(b)**
- F467** “(b)” substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 55(3)(b)**
- F468** Word “and” and s. 368(5)(c) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 53(3)(c)**
- F469** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 50**

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

- C111** [S. 368\(5\)](#) modified by [S.I. 1990/431](#), art. 4, **Sch. 1 para. 23**

### *Standards of management*

#### **369 The management code.**

- (1) The Secretary of State may, with a view to providing a code for the management of houses in multiple occupation, by regulations make provision for ensuring that the person managing a house in multiple occupation observes proper standards of management.
- (2) [<sup>F470</sup>Subject to subsection (2A)] the regulations may, in particular, require the person managing the house to ensure the repair, maintenance, cleansing and good order of—
  - all means of water supply and drainage in the house,
  - [<sup>F471</sup>all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions;]
  - kitchens, bathrooms and water closets in common use,
  - sinks and wash-basins in common use,
  - common staircases, corridors and passage ways, and

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outbuildings, yards and gardens in common use,  
and to make satisfactory arrangements for the disposal of refuse and litter from the house [<sup>F472</sup>and to ensure that all means of escape from fire are kept clear of obstructions].

[<sup>F473</sup>(2A) The person managing the house shall only be liable by virtue of the regulations under subsection (2) to ensure the repair, maintenance, cleansing and good order of any premises outside the house if and to the extent that he has power or is otherwise liable to ensure those matters in respect of any such premises.]

- (3) The regulations may—
- (a) make different provision for different types of house;
  - (b) . . . . .<sup>F474</sup>
  - (c) impose duties on persons who have an estate or interest in a house or part of a house to which the regulations apply as to the giving of information to the local housing authority, . . . .<sup>F475</sup>;
  - (d) impose duties on persons who live in the house for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
  - (e) authorise the local housing authority to obtain information as to the number of individuals or households accommodated in the house;
  - (f) . . . .<sup>F474</sup>
  - (g) contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.
- (4) Regulations under this section may vary or replace for the purposes of this section and of the regulations made under it the definition given in section 398 of the “person managing” a house.
- (5) A person who knowingly contravenes or without reasonable excuse fails to comply with a regulation under this section . . . .<sup>F476</sup> commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F470** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F471** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F472** Words added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 56(1)**
- F473** S. 369(2A) inserted by Local Government and Housing Act 1989 (c.42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 56(2)**
- F474** S. 369(3)(b)(f) repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 56(3), **Sch. 12 Pt. II**
- F475** Words repealed by Local Government and Housing Act 1989 (c.42, SIF 61), ss. 165(1)(b), 194(4), Sch. 9 Pt. III para. 56(3), **Sch. 12 Pt. II**
- F476** Words repealed by Local Government and Housing Act 1989 (c.42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 56(4), **Sch. 12 Pt. II**

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

**C112** By S.I. 1990/830, arts. 2(1), 3 it is provided that for the purposes of section 369 of the Housing Act 1985 the definition of “person managing” in section 398(6) of the Act shall be varied by the insertion of the words “; and for the purposes of the foregoing paragraphs, where rents or other payments are received by means of a payment made on behalf of any person, they shall be treated as rents or other payments received from that person.”

**370,** <sup>F477</sup> .....  
**371.**

**Textual Amendments**

**F477** Ss. 370, 371 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 57, Sch. 12 Pt. II (subject to a saving in S.I. 1990/1274, art. 3, Sch. para. 2 in relation to certain applications approved before 1.7.1990)

**372 Power to require execution of works to remedy neglect of management.**

- (1) If in the opinion of the local housing authority the condition of a house . . . <sup>F478</sup> is defective in consequence of—
  - (a) neglect to comply with the requirements imposed by regulations under section 369 (regulations prescribing management code), . . . <sup>F479</sup>
  - (b) ..... <sup>F479</sup>  
the authority may serve on the person managing the house a notice specifying the works which, in the opinion of the authority, are required to make good the neglect.
- (2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice may be served by addressing it to him by the description of “manager of the House” (naming the house to which it relates) and delivering it to some person on the premises.
- (3) The notice shall require the person on whom it is served to execute the works specified in the notice <sup>F480</sup>as follows, namely,—
  - (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
  - (b) to complete those works within such reasonable period as is so specified.]
- (4) Where the authority serve a notice under this section on the person managing a house, they shall inform any other person who is to their knowledge an owner, lessee or mortgagee of the house of the fact that the notice has been served.
- (5) References in this section to the person managing a house have the same meaning as in section 369 (and accordingly are subject to amendment by regulations under that section).

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#### Textual Amendments

- F478** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 58\(a\)](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)
- F479** Word “or” and s. 372(1)(b) repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 58\(b\)](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)
- F480** Words beginning “as follows,” and s. 372(3)(a)(b) substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch 9 Pt. III para. 50\(b\)](#)

### 373 Appeal against notice under s. 372.

- (1) A person on whom a notice is served under section 372 (notice requiring works to remedy neglect of management), or any other person who is an owner, lessee or mortgagee of the house to which the notice relates, may, within 21 days from the service of the notice, or such longer period as the local housing authority may in writing allow, appeal to the county court.
- (2) The appeal may be on any of the following grounds—
  - (a) that the condition of the house did not justify the local housing authority in requiring the execution of the works specified in the notice;
  - (b) that there has been some informality, defect or error in or in connection with, the notice;
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - [<sup>F481</sup>(cc) that the date specified for the beginning of the works is not reasonable]
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (e) that some other person is wholly or partly responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from their execution and ought to pay the whole or a part of the expenses of executing them.
- (3) In so far as an appeal is based on the ground mentioned in subsection (2)(b), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds on which an appeal is brought include the ground specified in subsection (2)(e), the appellant shall serve a copy of his notice of appeal on each other person referred to, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the payment to be made by any such other person to the appellant or, where the works are executed by the local housing authority, to the authority.

#### Textual Amendments

- F481** S. 373(2)(cc) inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 59](#)

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

C113 S. 373(2) extended (3.3.1997) by S.I. 1997/227, art. 3

374 <sup>F482</sup> .....

**Textual Amendments**

**F482** S. 374 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 60, Sch. 12 Pt. II (subject to a saving in S.I. 1990/1274, art. 3, Sch. para. 2 in relation to certain applications approved before 1.7.1990)

*Supplementary provisions as to works notices*

**375 Carrying out of works by local housing authority.**

- (1) If a notice under section 352, . . . <sup>F483</sup> or 372 (notices requiring the execution of works) is not complied with, the local housing authority may themselves do the work required to be done by the notice.
- [<sup>F484</sup>(2) Compliance with a notice means beginning and completing the works specified in the notice—
- (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
  - (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
  - (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date of withdrawal of the appeal and within such period (beginning on that twenty-first day) as is specified in the notice.
- (3) If, before the expiry of the period which under subsection (2) is appropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards compliance with the notice, the authority may themselves do the work required to be done by the notice.
- (3A) Not less than seven days before a local housing authority enter any house for the purpose of doing any works by virtue of subsection (1) or subsection (3), they shall serve notice of their intention to do so on the person on whom the notice referred to in subsection (1) was served and, if they think fit, also on any other owner of the house.
- (3B) If, after a local housing authority have served notice under subsection (3A), the works are in fact carried out (otherwise than by the authority), any administrative and other expenses incurred by the authority with a view to doing the work themselves in accordance with subsection (1) or subsection (3) shall be treated for the purposes of subsection (4) (and Schedule 10) as expenses incurred by them under this section in carrying out the works in a case where the notice referred to in subsection (1) has not been complied with.]
- (4) The provisions of Schedule 10 apply with respect to the recovery by the local housing authority of expenses incurred by them under this section.

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#### Textual Amendments

**F483** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

**F484** [S. 375\(2\)\(3\)\(3A\)\(3B\)](#) substituted for [s. 375\(2\)\(3\)](#) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\), Sch. 9 Pt. III para. 61](#)

### 376 Penalty for failure to execute works.

- (1) A person on whom a notice has been served under section 352, . . . <sup>F485</sup> or 372 (notices requiring the execution of works) who wilfully fails to comply with the notice commits a summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding [<sup>F486</sup>the expiry of the period which under section 375(2) is appropriate for completion of the works in question]; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under subsection (1) or this subsection, commits a further summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (3) References in this section to compliance with a notice . . . <sup>F487</sup> shall be construed in accordance with section 375(2).
- (4) . . . <sup>F488</sup>
- (5) The provisions of this section are without prejudice to the exercise by the local housing authority of their power under section 375 to carry out the works themselves.

#### Textual Amendments

**F485** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

**F486** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(c\), Sch. 9 Pt. III para. 62](#)

**F487** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

**F488** [S. 376\(4\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

### 377 Powers of court to facilitate execution of works, &c.

- (1) Where—
  - (a) a person is required by a notice under section 352, . . . <sup>F489</sup> or 372 to execute works and
  - (b) another person having an estate or interest in the premises unreasonably refuses to give a consent required to enable the works to be executed,the person required to execute the works may apply to the county court and the court may give the necessary consent in place of that other person.
- (2) If a person, after receiving notice of the intended action—
  - (a) being the occupier of premises, prevents the owner or his officers, agents, servants or workmen, from carrying into effect with respect to the premises any of the preceding provisions of this Part, or

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- (b) being the owner or occupier of premises, prevents an officer, agent, servant or workman of the local housing authority from so doing,
- a magistrates' court may order him to permit to be done on the premises all things requisite for carrying into effect those provisions.
- (3) A person who fails to comply with an order of the court under subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding level 3 on the standard scale; and if the failure continues, he commits a further summary offence and is liable on conviction to a fine not exceeding [<sup>F490</sup>one-tenth of the amount corresponding to that level] for every day or part of a day during which the failure continues.

#### Textual Amendments

**F489** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**F490** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 63](#)

VALID FROM 01/10/1996

#### [<sup>F491</sup>377A] Works notices: improvement of enforcement procedures.

- (1) The Secretary of State may by order provide that a local housing authority shall act as specified in the order before serving a works notice.

In this section a “works notice” means a notice under section 352 or 372 (notices requiring the execution of works).

- (2) An order under this section may provide that the authority—
- (a) shall as soon as practicable give to the person on whom the works notice is to be served a written notice which satisfies the requirements of subsection (3); and
  - (b) shall not serve the works notice until after the end of such period beginning with the giving of a notice which satisfies the requirements of subsection (3) as may be determined by or under the order.
- (3) A notice satisfies the requirements of this subsection if it—
- (a) states the works which in the authority's opinion should be undertaken, and explains why and within what period;
  - (b) explains the grounds on which it appears to the authority that the works notice might be served;
  - (c) states the type of works notice which is to be served, the consequences of serving it and whether there is a right to make representations before, or a right of appeal against, the serving of it.
- (4) An order under this section may also provide that, before the authority serves the works notice on any person, they—
- (a) shall give to that person a written notice stating—
    - (i) that they are considering serving the works notice and the reasons why they are considering serving the notice; and



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- (ii) that the person may, within a period specified in the written notice, make written representations to them or, if the person so requests, make oral representations to them in the presence of a person determined by or under the order; and
  - (b) shall consider any representations which are duly made and not withdrawn.
- (5) An order under this section may in particular—
- (a) make provision as to the consequences of any failure to comply with a provision made by the order;
  - (b) contain such consequential, incidental, supplementary or transitional provisions and savings as the Secretary of State considers appropriate (including provisions modifying enactments relating to the periods within which proceedings must be brought).
- (6) An order under this section—
- (a) may make different provision with respect to different cases or descriptions of case (including different provision for different areas), 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) Nothing in any order under this section shall—
- (a) preclude a local housing authority from serving a works notice on any person, or from requiring any person to take immediate remedial action to avoid a works notice being served on him, in any case where it appears to them to be necessary to serve such a notice or impose such a requirement; or
  - (b) require such an authority to disclose any information the disclosure of which would be contrary to the public interest.]

#### Textual Amendments

**F491** S. 377A inserted (1.10.1996) by 1996 c. 52, s. 76; S.I. 1996/2402, art. 3

### 378 Provisions for protection of owners.

- (1) If an owner of premises who is not the person in receipt of the rents and profits gives notice to the local housing authority of his interest in the premises, the authority shall give to him notice of any proceedings taken by them in relation to the premises under any of the preceding provisions of this Part.
- (2) Nothing in the preceding provisions of this Part prejudices or interferes with the rights or remedies of an owner for breach, non-observance or non-performance of a covenant or contract entered into by a lessee in reference to premises—
  - (a) in respect of which a notice requiring the execution of works is served by the local housing authority under 352, . . . <sup>F492</sup> or 372, or
  - <sup>F493</sup>(b) to which regulations under section 369 (the management code) apply]and if an owner is obliged to take possession of premises in order to comply with such a notice, the taking possession does not affect his right to avail himself of any such breach, non-observance or non-performance which occurred before he took possession.

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#### Textual Amendments

**F492** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**F493** [S. 378\(2\)\(b\)](#) substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 64](#)

### 379 Making of control order.

- (1) The local housing authority may make a control order in respect of a house in multiple occupation if—
- (a) a notice has been served in respect of the house under section 352 or 372 (notices requiring the execution of works),
  - (b) a direction has been given in respect of the house under section 354 (direction limiting number of occupants),
  - (c) ..... <sup>F494</sup> or
  - (d) it appears to the authority that the state or condition of the house is such as to call for the taking of action under any of those sections,
- and it appears to the authority that the living conditions in the house are such that it is necessary to make the order in order to protect the safety, welfare or health of persons living in the house.
- (2) A control order comes into force when it is made, and as soon as practicable after making a control order the local housing authority shall, in exercise of the powers conferred by the following provisions of this Part and having regard to duties imposed on them by those provisions, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.
- (3) As soon as practicable after making a control order the local housing authority shall—
- (a) post a copy of the order, together with a notice as described in subsection (4), in some position in the house where it is accessible to those living in the house, and
  - (b) serve a copy of the order, together with such a notice on every person who, to the knowledge of the authority, was immediately before the coming into force of the order a person managing or having control of the house or is an owner, lessee or mortgagee of the house.
- (4) The notice mentioned above shall set out the effect of the order in general terms, referring to the rights of appeal against control orders conferred by this Part and stating the principal grounds on which the local housing authority consider it necessary to make a control order.

#### Textual Amendments

**F494** Words repealed by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), ss. 165(1)(c), 194(4), [Sch. 9 Pt. III para. 65](#), [Sch. 12 Pt. II](#) (subject to a saving in [S.I. 1990/1274](#), art. 3, [Sch. para. 2](#) in relation to certain applications approved before 1.7.1990)

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### **380 Modification of control order where proprietor resides in part of house.**

- (1) The local housing authority may exclude from the provisions of a control order a part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house.
- (2) Except where a contrary intention appears, references in this Part to the house to which a control order relates do not include a part of the house so excluded from the provisions of the order.

### **381 General effect of control order.**

- (1) While a control order is in force the local housing authority—
  - (a) have the right to possession of the premises,
  - (b) have the right to do (and authorise others to do) in relation to the premises anything which a person having an estate or interest in the premises would, but for the making of the order, be entitled to do, without incurring any liability to any such person except as expressly provided by this Part, and
  - (c) may, notwithstanding that they do not, under this section, have an interest amounting to an estate in law in the premises, create an interest in the premises which, as near as may be, has the incidents of a leasehold;but subject to section 382 as regards the rights of persons occupying parts of the house under existing tenancies or agreements.
- (2) The local housing authority shall not, without the consent in writing of the person or persons who would have power to create the right if the control order were not in force, create in exercise of the powers conferred by this section any right in the nature of a lease or licence which is for a fixed term exceeding one month or is terminable by notice to quit (or an equivalent notice) of more than four weeks.
- (3) Any enactment or rule of law relating to landlords and tenants or leases applies in relation to—
  - (a) an interest created under this section, or
  - (b) a lease to which the authority become a party under section 382,as if the authority were the legal owner of the premises; but subject to the provisions of section 382, relating to the Rent Acts [<sup>F495</sup> and Part I of the Housing Act 1988].
- (4) On the coming into force of a control order any notice direction or order under section 352, 354, . . . <sup>F496</sup>, . . . <sup>F497</sup> or 372 shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local housing authority to recover any expenses incurred in carrying out works.
- (5) A control order is a local land charge.
- (6) References in any enactment to housing accommodation provided or managed by the local housing authority do not include a house which is subject to a control order.

#### **Textual Amendments**

**F495** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 51](#)

**F496** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

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**F497** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 57](#), [Sch. 12 Pt. II Note 2](#)

### **382 Effect of control order on persons occupying house.**

- (1) This section applies to a person who, at the time when a control order comes into force, is occupying part of the house and does not have an estate or interest in the whole of the house.
- (2) Section 381 (general effect of control order) does not affect the rights or liabilities of such a person under a lease, licence or agreement (whether in writing or not) under which he is occupying part of the house at the time when the control order comes into force; and—
  - (a) such a lease, licence or agreement has effect while the control order is in force as if the local housing authority were substituted in it for any party to it who has an estate or interest in the house and is not a person to whom this section applies, and
  - (b) such a lease continues to have effect as near as may be as a lease notwithstanding that the rights of the local housing authority, as substituted for the lessor, do not amount to an estate in law in the premises.
- (3) The provisions which exclude local authority lettings from the Rent Acts, that is—
  - (a) sections 14 to 16 of the <sup>M69</sup>Rent Act 1977, and
  - (b) those sections as applied by Schedule 2 to the <sup>M70</sup>Rent (Agriculture) Act 1976 and section 5(2) to (4) of that Act,
 do not apply to a lease or agreement under which a person to whom this section applies is occupying part of the house.
- <sup>F498</sup>(3A) Section 1(2) of and paragraph 12 of Part I of Schedule 1 to the Housing Act 1988 (which exclude local authority lettings from Part I of that Act) do not apply to a lease or agreement under which a person to whom this section applies is occupying part of the house.]
- (4) If immediately before the control order came into force a person to whom this section applies was occupying part of the house under—
  - (a) a protected or statutory tenancy within the meaning of the Rent Act 1977, or
  - (b) a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, <sup>F499</sup>or
  - (c) an assured tenancy or assured agricultural occupancy within the meaning of Part I of the Housing Act 1988]
 nothing in this Part prevents the continuance of that tenancy or occupancy or affects the continued operation of <sup>F500</sup>any of those Acts] in relation to the tenancy or occupancy after the coming into force of the control order.
- (5) So much of the regulations made under section 369 (regulations prescribing management code) as imposes duties on persons who live in a house to which the regulations apply also applies to persons who live in a house as respects which a control order is in force.

#### **Textual Amendments**

**F498** S. 382(3A) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 52\(1\)](#)

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**F499** Word “or” and s. 382(4)(c) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 52\(2\)](#)

**F500** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 170(1), [Sch. 17 Pt. I para. 52\(2\)](#)

#### Marginal Citations

**M69** 1977 c. 42.

**M70** 1976 c. 80.

### **383 Effect of control order in relation to furniture in case of furnished letting.**

- (1) If on the date on which the control order comes into force there is furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor, whether included in the rent payable by the resident or not, the right to possession of the furniture as against all persons other than the resident vests in the local housing authority on that date and remains vested in the authority while the control order remains in force.
- (2) The authority may, on the application in writing of the person owning such furniture, by notice in writing served on that person not less than two weeks before the notice takes effect, renounce the right to possession of the furniture conferred by subsection (1).
- (3) If the local housing authority’s right to possession of furniture conferred by subsection (1) is a right exercisable as against more than one person interested in the furniture, any of those persons may apply to the county court for an adjustment of their respective rights and liabilities as regards the furniture.
- (4) On such an application the county court may make an order for such an adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings by way of compensation, damages or otherwise) as it thinks just and equitable.
- (5) In this section “furniture” includes fittings and other articles.

### **384 Appeal against control order.**

- (1) A person having an estate or interest in a house to which a control order relates or, subject to subsection (3), any other person may appeal to the county court against the control order on any of the following grounds—
  - (a) that, whether or not the local housing authority have made an order or issued a notice or direction under any of the provisions of this Part mentioned in section 379(1)(a) to (c) the state or condition of the house was not such as to call for the taking of action under any of those provisions;
  - (b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;
  - (c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local housing authority to exercise their powers under section 380 so as to exclude from the provisions of the control order a part of the house (or a greater part than has been excluded);

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- (d) that the control order is invalid on the ground that a requirement of this Part has not been complied with or on the ground of some informality, defect or error in, or in connection with the control order.
- (2) An appeal may be brought at any time after the making of the control order but not later than the expiration of a period of six weeks from the date on which the local housing authority serve a copy of a management scheme relating to the house in accordance with section 386, or such longer period as the authority may in writing allow.
- (3) The court may, before entertaining an appeal brought by a person who had not, when he brought an appeal, an estate or interest in the house, require the appellant to satisfy the court that he may be prejudiced by the making of the order.
- (4) In so far as an appeal is based on the ground that the control order is invalid, the court shall confirm the order unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (5) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.
- (6) Subject to the right of appeal conferred by this section, a control order is final and conclusive as to any matter which would have been raised on such an appeal.

### **385 General duties of local housing authority when control order is in force.**

- (1) The local housing authority shall—
  - (a) exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house,
  - (b) take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under any other provision of this Act if they had not made a control order, and
  - (c) make reasonable provision for insurance of the premises subject to the control order against destruction or damage by fire or other cause.
- (2) The reference in subsection (1)(c) to the premises subject to the control order includes any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) Premiums paid for the insurance of the premises shall be treated for the purposes of this Part as expenditure incurred by the authority in respect of the premises.

### **386 Duty to prepare management scheme.**

- (1) After a control order has been made, the local housing authority shall prepare a management scheme and shall, not later than eight weeks after the date on which the control order comes into force, serve a copy of the scheme on—
  - (a) every person who is, to the knowledge of the authority, a dispossessed proprietor or an owner, lessee or mortgagee of the house, and
  - (b) any other person on whom the authority served a copy of the control order.
- (2) Part I of Schedule 13 has effect with respect to the matters to be provided for in a management scheme and for appeals against such schemes and related matters.

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- (3) This section does not affect the powers conferred on the local housing authority by section 381 (general effect of control order), and accordingly the authority may carry out works in a house which is subject to a control order whether or not particulars of the works have been included in a management scheme.

### **387 Right of entry for inspection and carrying out of works.**

- (1) The local housing authority, and any person authorised in writing by the authority, have, as against a person having an estate or interest in a house which is subject to a control order, the right at all reasonable times to enter any part of the house for the purpose of survey and examination or of carrying out works.
- (2) The right conferred by subsection (1) is without prejudice to the rights conferred on the authority by section 381 (general effect of control order).
- (3) Where part of a house is excluded from the provisions of a control order under section 380 (modification of order where dispossessed proprietor resides in part of the house), the right conferred by subsection (1) is exercisable as respects that part so far as is reasonably required for the purpose of survey and examination of, or carrying out works in, the part of the house which is subject to the control order.
- (4) If the occupier of part of a house subject to a control order, after receiving notice of the intended action, prevents any officers, agents, servants, or workmen of the local housing authority from carrying out work in the house a magistrates' court may order him to permit to be done on the premises anything which the authority consider necessary.
- (5) A person who fails to comply with an order of the court under subsection (4) commits a summary offence and is liable to a fine not exceeding level 3 on the standard scale and to a further fine not exceeding [<sup>F501</sup>one-tenth of the amount corresponding to that level] for every day or part of a day during which the failure continues.

#### **Textual Amendments**

**F501** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 66](#)

### **388 Power to supply furniture and fittings.**

The local housing authority may fit out, furnish and supply a house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

### **389 Compensation payable to dispossessed proprietor.**

- (1) The local housing authority shall pay compensation to the dispossessed proprietor—
  - (a) in respect of the period during which the control order is in force, at a rate calculated in accordance with Part II of Schedule 13 . . . <sup>F502</sup>;
  - (b) in respect of a period during which the authority have the right to possession of furniture in pursuance of section 383 (house subject to furnished letting when control order made), at such rate as the parties agree or is determined in default of agreement by the rent tribunal for the district in which the house is situated.

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- (2) Compensation accrues from day to day (and is apportionable in respect of time accordingly) and is payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force.
- (3) If at the time when compensation accrues due the estate or interest of the dispossessed proprietor or, as the case may be, the furniture in question is subject to a mortgage or charge, the compensation is also comprised in the mortgage or charge.

#### Textual Amendments

**F502** Words repealed by S.I. 1990/434, reg. 2, Sch. para. 21

### **390 Facilities to be afforded to dispossessed proprietor and others.**

- (1) The local housing authority shall—
  - (a) keep full accounts of their income and expenditure in respect of a house which is subject to a control order, and
  - (b) afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.
- (2) While a control order is in force the local housing authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

### **391 Power of court to modify or determine lease.**

- (1) Either the lessor or lessee under a lease of premises which consist of or include a house which is subject to a control order, other than a lease to which section 382(2) applies (leases under which persons are occupying parts of the house and which have effect as if the local housing authority were substituted as landlord), may apply to the county court for an order for the determination of the lease or for its variation.
- (2) If on such an application the court is satisfied that—
  - (a) if the lease is determined and the control order is revoked, the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local housing authority consider they would, if a control order had not been in force, have required to be carried out under any provision of this Part, and
  - (b) that the authority intend, if the lease is determined, to revoke the control order, the court shall exercise the jurisdiction conferred by this section so as to determine the lease.
- (3) An order under this section may be unconditional or subject to such terms and conditions as the court thinks just and equitable to impose having regard to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances.
- (4) The terms and conditions may include terms or conditions with respect to the payment of money by a party to the proceedings to another party to the proceedings, by way of compensation, damages or otherwise.



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- (5) An order under this section may include provisions for modifying in relation to the lease the effect of the provisions of paragraph 15 of Schedule 13 (re-transfer of the landlord's interest on the cessation of the control order).

### **392 Expiry or revocation of control order.**

- (1) A control order ceases to have effect at the expiry of the period of five years beginning with the date on which it came into force.
- (2) The local housing authority may at any earlier time, either on application or on their own initiative, by order revoke a control order.
- (3) The authority shall, at least 21 days before revoking a control order, serve notice of their intention to do so on—
- (a) the persons occupying any part of the house, and
  - (b) every person who is to the knowledge of the authority an owner, lessee or mortgagee of the house.
- (4) If a person applies to the local authority requesting the authority to revoke a control order and giving the grounds on which the application is made, the authority shall if they refuse the application inform the applicant of their decision and of their reasons for rejecting the grounds advanced by him.
- (5) Where the local housing authority propose to revoke a control order under this section on their own initiative and apply to the county court under this subsection, the court may approve the taking of any of the following steps to take effect on the revocation of the control order, that is—
- (a) the serving of a notice under section 352, . . . <sup>F503</sup> or 372 (notices requiring the execution of works),
  - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
  - (c) the making of an order under section 370 (order applying management code to house);
- and no appeal lies against a notice or order so approved.

#### **Textual Amendments**

**F503** Figures repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

### **393 Appeal against refusal to revoke control order.**

- (1) If the local housing authority—
- (a) refuse an application under section 392 for the revocation of a control order, or
  - (b) do not within 42 days from the making of such an application or such further period as the applicant may in writing allow, inform him of their decision,
- the applicant may appeal to the county court and the county court may revoke the order.
- (2) The court shall revoke the control order if—
- (a) the appellant has an estate or interest in the house which, apart from the rights conferred on the local housing authority by section 381 (general effect of

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control order) and the rights of persons occupying any part of the house, would give him the right to possession of the house,

- (b) that estate or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, and
- (c) the appellant satisfies the court that he is in a position and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house;

and if the court is not so satisfied but would be so satisfied if the date of revocation of the control order were a date later than the hearing of the appeal, the court shall, if the appellant so requires, make an order for the revocation of the control order on that later date.

- (3) If an appeal is brought under this section, the leave of the court is required for the bringing of another appeal against the same order, whether by the same or a different appellant, within the period of six months beginning with the final determination of the previous appeal.
- (4) Further provisions as to certain matters arising on the revocation of a control order on appeal are contained in Part III of Schedule 13.

#### **394 Cessation of control order.**

Further provisions as to matters arising on the cessation of a control order are contained in Parts III and IV of Schedule 13—

Part III relates to the cessation of control orders generally, and

Part IV provides for the case where a control order is followed by a compulsory purchase order.

#### *General supplementary provisions*

#### **395 Powers of entry.**

- (1) Where it appears to the local housing authority that survey or examination of any premises is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises, a person authorised by the authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier, and to the owner if the owner is known, enter the premises for the purpose of such a survey and examination.
- (2) A person authorised by the local housing authority may at any reasonable time, without any such prior notice as is mentioned in subsection (1), enter any premises for the purpose of ascertaining whether an offence has been committed under any of the following provisions of this Part—
  - section 346(6) (contravention of or failure to comply with provision of registration scheme),
  - section 355(2) (failure to comply with requirements of direction limiting number of occupants of house),
  - section 358(4) (contravention of overcrowding notice),
  - section 368(3) (use or permitting use of part of house with inadequate means of escape from fire in contravention of undertaking),

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section 369(5) (contravention of or failure to comply with regulations prescribing management code),  
section 376(1) or (2) (failure to comply with notice requiring execution of works).

- (3) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [<sup>F504</sup> and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### Textual Amendments

**F504** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), [Sch. 9 Pt. III para. 67](#)

VALID FROM 01/10/1996

#### [<sup>F505</sup> 395A] Codes of practice.

- (1) The Secretary of State may by order—
- approve any code of practice (whether prepared by him or another person) which, in his opinion, gives suitable guidance to any person in relation to any matter arising under this Part;
  - approve any modification of such a code; or
  - withdraw such a code or modification.
- (2) The Secretary of State shall only approve a code of practice or a modification of a code if he is satisfied that—
- the code or modification has been published (whether by him or by another person) in such manner as he considers appropriate for the purpose of bringing the code or modification to the notice of those likely to be affected by it; or
  - arrangements have been made for the code or modification to be so published.
- (3) The Secretary of State may approve—
- more than one code of practice in relation to the same matter;
  - a code of practice which makes different provision with respect to different cases or descriptions of case (including different provision for different areas).
- (4) A failure to comply with a code of practice for the time being approved under this section shall not of itself render a person liable to any civil or criminal proceedings; but in any civil or criminal proceedings—
- any code of practice approved under this section shall be admissible in evidence, and
  - any provision of any such code which appears to the court to be relevant to any question arising in the proceedings shall be taken into account in determining that question.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(6) In this section references to a code of practice include references to a part of a code of practice.]

#### Textual Amendments

**F505** S. 395A inserted (1.10.1996) by 1996 c. 52, s. 77; S.I. 1996/2402, art. 3

### 396 Penalty for obstruction.

- (1) It is a summary offence [<sup>F506</sup>intentionally] to obstruct an officer of the local housing authority, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding [<sup>F507</sup>level 3] on the standard scale.

#### Textual Amendments

**F506** Word inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 68(1)

**F507** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), Sch. 9 Pt. III para. 68(2)

### 397 Warrant to authorise entry.

- (1) Where it is shown to the satisfaction of a justice of the peace, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, the local housing authority—
  - (a) for the purpose of survey and examination to determine whether any powers under this Part should be exercised in respect of the premises, or
  - (b) for the purpose of ascertaining whether an offence has been committed under any of the provisions of this Part listed in section 395(2),
 the justice may by warrant under his hand authorise that person to enter on the premises for those purposes or for such of those purposes as may be specified in the warrant.
- (2) The justice shall not grant the warrant unless he is satisfied—
  - (a) that admission to the premises has been refused and, except where the purpose specified in the information is that mentioned in subsection (1)(b), that admission was sought after not less than 24 hours' notice of the intended entry had been given to the occupier, or
  - (b) that application for admission would defeat the purpose of the entry.
- (3) The power of entry conferred by the warrant includes power to enter by force, if need be, and may be exercised by the person on whom it is conferred either alone or together with other persons.
- (4) If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of the warrant shall leave the premises as effectively secured against trespassers as he found them.

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- (5) The warrant continues in force until the purpose for which the entry is required is satisfied.

### **398 Meaning of “lessee”, “owner”, “person, having control” and similar expressions.**

- (1) In this Part the expressions “lessee”, “owner” “person having an estate or interest”, “person having control”, and “person managing” shall be construed as follows.
- (2) “Lessee” includes a statutory tenant of the premises, and references to a lease or to a person to whom premises are let shall be construed accordingly.
- (3) “Owner”—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion, and
  - (b) includes also a person holding or entitled to the rents and profits of the premises under a lease having an unexpired term exceeding three years.
- (4) “Person having an estate or interest” includes a statutory tenant of the premises.
- (5) “Person having control” means the person who receives the rack-rent of the premises, whether on his own account or as agent or trustee of another person, or who would so receive it if the premises were let at a rack-rent (and for this purpose a “rack-rent” means a rent which is not less than 2/3rds of the full net annual value of the premises).
- (6) “Person managing”—
- (a) means the person who, being an owner or lessee of the premises, receives, directly or through an agent or trustee, rents or other payments from persons who are tenants of parts of the premises, or who are lodgers, and
  - (b) includes, where those rents or other payments are received through another person as agent or trustee, that other person.

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

**C114** S. 398 applied (17.12.1996) by 1996 c. 53, s. 82(1)(b); S.I. 1996/2842, art. 3 (with transitional, supplementary and saving provisions in arts. 5-8)

**C115** By S.I. 1990/830, arts. 2(1), 3 it is provided that for the purposes of section 369 of the Housing Act 1985 the definition of “person managing” in section 398(6) of the Act shall be varied by the insertion of the words “; and for the purposes of the foregoing paragraphs, where rents or other payments are received by means of a payment made on behalf of any person, they shall be treated as rents or other payments received from that person.”

### **399 Minor definitions.**

In this Part—

“dispossessed proprietor”, in relation to a house subject to a control order, means the person by whom the rent or other periodical payments to which the local housing authority become entitled on the coming into force of the order would have been receivable but for the making of the order, and the successors in title of that person;

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“final determination”, in relation to an appeal, includes the withdrawal of the appeal, which has the same effect for the purposes of this Part as a decision dismissing the appeal;

“house” includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.

#### 400 Index of defined expressions: Part XI.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

appropriate multiplier	Schedule 13, paragraph 13
[ <sup>F508</sup> assured tenancy]	[ <sup>F508</sup> section 622]
[ <sup>F508</sup> assured agricultural occupancy]	[ <sup>F508</sup> section 622]
control order	section 379(1)
control provisions	section 347(1)
dispossessed proprietor	section 399
district (of a local housing authority)	section 2(1)
district valuer	section 622
expenditure incurred (in respect of a house subject to a control order)	section 385(3) and Schedule 13, paragraph 2(3)
final determination (in relation to an appeal)	section 399
[ <sup>F509</sup> flat in multiple occupation]	[ <sup>F509</sup> section 354]
gross value	Schedule 13, paragraphs 8 to 12
house	section 399
house in multiple occupation	section 345
lessee (and “lease” and “let”)	sections 398 and 621
local housing authority	section 1, 2(2)
management code	section 369
management scheme	section 386
overcrowding notice	section 358(1)
owner	section 398(3)
person having control	section 398(5)
person having an estate or interest	section 398(4)
person managing	sections 369(4), 372(5) and 398(6)
registration scheme	section 346
the Rent Acts	section 622

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rents or other payments	Schedule 13, paragraph 2(2)
standard scale (in reference to the maximum fine on summary conviction)	section 622
statutory tenant	section 622
surpluses on revenue account as settled by the scheme (in Schedule 13)	Schedule 13, paragraph 2(1)
tenant	section 621

#### Textual Amendments

**F508** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 53**

**F509** Entry inserted by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 69**

## PART XII

### COMMON LODGING HOUSES

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

**C116** [Pt. XII](#) (ss. 401–416): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 65\(2\)\(a\)\(4\)](#)

#### *Introductory*

#### **401 Meaning of “common lodging house”.**

In this Part “common lodging house” means a house (other than a public assistance institution) provided for the purpose of accommodating by night poor persons, not being members of the same family, who resort to it and are allowed to occupy one common room for the purpose of sleeping or eating, and includes, where part only of a house is so used, the part so used.

#### *Regulation of common lodging houses*

#### **402 No person to keep a common lodging house unless registered.**

No person shall keep a common lodging house, or receive a lodger in a common lodging house, unless he is registered as the keeper of the house under this Part.

Provided that, when the registered keeper of a common lodging house dies, his widow or any other member of his family may, for a period not exceeding four weeks from his death or such longer period as the local housing authority may sanction, keep the common lodging house without being registered as the keeper.

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#### **403 Register of common lodging house keepers and their houses.**

The local housing authority shall keep a register in which shall be entered—

- (a) the full names and the place of residence of every person registered as the keeper of a common lodging house;
- (b) the situation of every such lodging house;
- (c) the number of persons authorised to be received in the lodging house; and
- (d) the full names and places of residence of any persons who are to act as deputies of the keeper of the lodging house.

#### **404 Provisions with respect to registration.**

- (1) Subject to the following provisions of this section, a local housing authority, on receiving from a person an application in writing—
  - (a) for registration as a keeper of a common lodging house, or
  - (b) for the renewal of his registration,shall register the applicant in respect of the common lodging house named in the application, or renew his registration in respect of it, and issue to him a certificate of registration or renewal
- (2) The authority shall not register an applicant until an officer of the authority has inspected the premises named in the application and has made a report on them.
- (3) The authority may refuse to register, or renew the registration of, an applicant if they are satisfied that—
  - (a) he, or a person employed or proposed to be employed by him at the common lodging house, as a deputy or otherwise, is not a fit person, whether by reason of his age or otherwise, to keep or to be employed at a common lodging house; or
  - (b) the premises are not suitable for use as a common lodging house or are not, as regards sanitation and water supply and in other respects, including means of escape in case of fire, suitably equipped for such use; or
  - (c) the use of the premises as a common lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.
- (4) The registration of a person as a keeper of a common lodging house remains in force for such period, not exceeding 13 months, as may be fixed by the authority, but may be renewed by them for a period not exceeding 13 months at any one time.
- (5) If a local housing authority refuse to grant or renew registration, they shall, if required by the applicant, give him a statement in writing of the grounds on which his application is refused.
- (6) A local housing authority shall at any time, on the application of a person registered as the keeper of a common lodging house—
  - (a) remove from the register the name of any person entered in it as a deputy of the keeper, or
  - (b) insert the name of any other person (being a person approved by the authority) whom the keeper proposes to employ as a deputy,and shall make any consequential alterations in the certificate of registration.



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#### **405 Appeals against refusal of registration.**

- (1) A person aggrieved by the refusal of a local housing authority under section 404 to grant or renew registration may appeal to a magistrates' court.
- (2) The time within which an appeal may be brought is 21 days from the date on which notice of the authority's refusal was served on the person desiring to appeal; and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.
- (3) Where such an appeal lies, the document notifying to the person concerned the decision of the authority in the matter shall state the right of appeal to a magistrates' court and the time within which such an appeal may be brought.
- (4) A person aggrieved by a decision of a magistrates' court on such an appeal may appeal to the Crown Court.
- (5) Where on an appeal under this section a court varies or reverses the authority's decision, the authority shall make any necessary entry in the register and issue any necessary certificate.

#### **406 Byelaws as to common lodging houses.**

A local housing authority may, and if so required by the Secretary of State shall, make byelaws—

- (a) for fixing the number of persons who may be received into a common lodging house, and for the separation of the sexes in it;
- (b) for promoting cleanliness and ventilation in common lodging houses, and requiring the walls and ceilings of such lodging houses to be limewashed, or treated with some other suitable preparation, at specified intervals;
- (c) with respect to the taking of precautions when any case of infectious disease occurs in such a lodging house and
- (d) generally for the well-ordering of such lodging houses.

#### **407 Management and control of common lodging houses.**

- (1) The keeper of a common lodging house shall, if required by the local housing authority to do so, affix, and keep affixed and undefaced and legible, a notice with the words "Registered Common Lodging-house" in some conspicuous place on the outside of the house.
- (2) Either the keeper of the lodging house, or a deputy registered under this Part, shall manage the lodging house and exercise supervision over persons using it, and either the keeper or a deputy so registered shall be at the lodging house continuously between the hours of nine o'clock in the evening and six o'clock in the morning of the following day.
- (3) The local housing authority may by notice require the keeper of a common lodging house in which beggars or vagrants are received to report daily to them, or to such persons as they may direct, every lodger who resorted to the house during the preceding day or night.

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- (4) An authority who require such reports to be made shall supply to the keeper of the lodging house schedules to be filled up by him with the information required and to be transmitted by him in accordance with their notice.
- (5) The keeper of a common lodging house, and every other person having the care or taking part in the management of it, shall at all times, if required by an authorised officer of the local housing authority, allow him to have free access to all parts of the house.

#### 408 Offences.

- (1) It is a summary offence for a person—
  - (a) to contravene or fail to comply with any of the provisions of this Part;
  - (b) being the registered keeper of a common lodging house, to fail to keep the premises suitably equipped for use as such;
  - (c) to apply to be registered as the keeper of a common lodging house at a time when he is, under section 409, disqualified from being so registered; or
  - (d) in an application for registration, or for the renewal of his registration, as the keeper of a common lodging house, to make a statement which he knows to be false.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding [<sup>F510</sup>level 2] on the standard scale and, subject to subsection (3), to a further fine not exceeding [<sup>F511</sup>one-tenth of the amount corresponding to that level] for each day on which the offence continues after conviction.
- (3) The court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty is not recoverable in respect of any day before the period expires.

#### Textual Amendments

**F510** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 75\(a\)](#)

**F511** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 75\(b\)](#)

#### 409 Power of court on conviction to cancel registration and to disqualify for re-registration

Where the registered keeper of a common lodging house is convicted of—

- (a) an offence under this Part or a byelaw made under it, or
- (b) an offence under section 39(2) or 49(2) of the <sup>M71</sup>Public Health (Control of Disease) Act 1984 (failure to notify case of infectious disease or failure to comply with closing order made on account of notifiable disease),

the court by which he is convicted may cancel his registration as a common lodging house keeper and may order that he be disqualified for such period as the court thinks fit from being again registered as such a keeper.

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#### Marginal Citations

M71 1984 c 22.

### *Enforcement*

#### **410 Duty of local housing authority to enforce this Part.**

- (1) The local housing authority shall carry this Part into execution.
- (2) Sections 322 to 326 of the <sup>M72</sup>Public Health Act 1936 (default powers of Secretary of State and related provisions) apply in relation to failure by a local housing authority to discharge their functions under this Part.

#### Marginal Citations

M72 1936 c. 49.

#### **411 Powers of entry.**

- (1) An authorised officer of a local housing authority may at any reasonable time, on giving 24 hours' notice of his intention to the occupier and producing, if so required, some duly authenticated document showing his authority, enter premises for the purpose—
  - (a) of ascertaining whether there is, or has been, on or in connection with the premises, any contravention of the provisions of this Part or of any byelaw made under it;
  - (b) of ascertaining whether circumstances exist which would authorise or require the authority to take any action under this Part or any such byelaws;
  - (c) for the purpose of taking any action authorised or required by this Part or any such byelaws to be taken by the authority; or
  - (d) generally, for the purpose of the performance by the authority of their functions under this Part or any such byelaws.
- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that there is reasonable ground for entry into premises for any of the purposes mentioned in subsection (1) and—
  - (a) that admission to premises has been refused, or that refusal is apprehended,
  - (b) that the premises are unoccupied or the occupier is temporarily absent, or
  - (c) that the case is one of urgency or that an application for admission would defeat the object of the entry,he may, by warrant under his hand, authorise the authority by any authorised officer to enter the premises, by force if need be.
- (3) A warrant shall not be issued unless the justice is satisfied either—
  - (a) that notice of the intention to apply for a warrant has been given to the occupier, or

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- (b) that the premises are unoccupied, the occupier is temporarily absent, the case is one of urgency, or the giving of such notice would defeat the object of the entry.
- (4) An authorised officer entering premises by virtue of this section, or of a warrant issued under this section, may take with him such other persons as may be necessary; and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (5) A warrant granted under this section continues in force until the purpose for which the entry is necessary has been satisfied.

#### **412 Penalty for obstruction.**

- (1) It is a summary offence for a person [<sup>F512</sup>intentionally] to obstruct a person acting in the execution of this Part or of any byelaw or warrant made or issued under it.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding [<sup>F513</sup>level 3] on the standard scale.

#### **Textual Amendments**

**F512** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 76\(1\)](#)

**F513** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 76\(2\)](#)

#### **413 Restriction on right to prosecute.**

Proceedings in respect of an offence created by or under this Part shall not, without the written consent of the Attorney General, be taken by any person other than a party aggrieved or the local housing authority.

#### *Supplementary provisions*

#### **414 Evidence in legal proceedings.**

- (1) If in proceedings under this Part it is alleged that the inmates of a house or part of a house are members of the same family, the burden of proving that allegation rests on the person by whom it is made.
- (2) In proceedings under this Part a document purporting to be a copy of an entry in the register of common lodging houses and purporting to be certified as such by the proper officer of the local housing authority shall be prima facie evidence of the matters recorded in the entry.
- (3) The proper officer of the local housing authority shall supply such a certified copy free of charge to any person who applies for it at a reasonable hour.

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**415 Power to apply provisions to Crown property**

Section 341 of the <sup>M73</sup>Public Health Act 1936 (power to apply provisions to Crown property) applies to the provisions of this Part as it applies to provisions of that Act.

**Marginal Citations**

**M73** 1936 c. 49.

**416 Index of defined expressions: Part XII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

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common lodging house	section 401
local housing authority	section 1, 2(2)
standard scale (in reference to the maximum fine on summary conviction)	section 622

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**PART XIII**

**GENERAL FINANCIAL PROVISIONS**

417— ..... <sup>F514</sup>  
420.

**Textual Amendments**

**F514** Ss. 417–420 repealed and superseded by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 74(6), 88(3), 194(4), **Sch. 12 Pt. II** Note 2

*Housing subsidy*

**421 Housing subsidy.**

- (1) Housing subsidy is payable for each year to [<sup>F515</sup>new town corporations and the Development Board for Rural Wales].
- (2) Housing subsidy shall be credited [<sup>F516</sup>to the body’s housing account]
- (3) Housing subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (4) Payment of housing subsidy is subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.

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### Textual Amendments

**F515** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 77\(1\)\(3\)](#)

**F516** Words substituted for s. 421(2)(a)(b) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 77\(2\)\(3\)](#)

### Modifications etc. (not altering text)

**C117** [Ss. 421–427A](#): by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 79\(3\)](#) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

## 422 Calculation of housing subsidy for local housing authorities.

- (1) The amount of the housing subsidy payable to a [<sup>F517</sup>new town corporation] for a year (the year of account) shall be calculated from the amounts which, in accordance with sections 423 to 425, are the [<sup>F517</sup>corporation's]—
- (a) base amount (BA),
  - (b) housing costs differential (HCD), and
  - (c) local contribution differential (LCD),

for the year, and shall be so calculated by using the formula BA+HCD-LCD.

- (2) If the amount so calculated is nil or a negative amount, no housing subsidy is payable to the [<sup>F518</sup>corporation] for that year.

### Textual Amendments

**F517** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 paras. 77\(3\), 78\(1\)](#)

**F518** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194, [Sch. 11 paras. 77\(3\), 78\(2\)](#)

### Modifications etc. (not altering text)

**C118** [Ss. 421–427A](#): by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 79\(3\)](#) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

## 423 The base amount.

- (1) A [<sup>F519</sup>new town corporation's] base amount for a year of account is, subject to any adjustment under subsection (2), the amount calculated for the preceding year under section 422, that is to say, the amount of the housing subsidy payable to the [<sup>F519</sup>corporation] for that year or, if none was payable, nil or a negative amount, as the case may be.
- (2) If the Secretary of State is of opinion that particular circumstances require it, he may adjust the base amount for any year by increasing or decreasing it, either generally or in relation to . . . <sup>F520</sup>any particular authority.

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#### Textual Amendments

**F519** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 79(1)**

**F520** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1)(4), Sch. 11 para. 79(2), **Sch. 12 Pt. II**

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

**C119** Ss. 421–427A: by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 79(3) it is provided that sections 421 to 427A of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

### 424 The housing costs differential.

- (1) A [<sup>F521</sup>new town corporation's] housing costs differential for a year of account is the amount by which their reckonable expenditure for that year exceeds their reckonable expenditure for the preceding year (and accordingly is nil or, as the case may be, a negative amount if the reckonable expenditure for the year is the same as or less than that for the preceding year).
- (2) A [<sup>F522</sup>new town corporation's] reckonable expenditure for a year is the aggregate of—
  - (a) so much of the expenditure incurred by the [<sup>F522</sup>corporation] in that year and falling to be debited to [<sup>F522</sup>the corporation's housing account] as the Secretary of State may determine, and
  - (b) so much of any other expenditure incurred by the [<sup>F522</sup>corporation] in that year, or treated as so incurred in accordance with a determination made by the Secretary of State, as the Secretary of State may determine to be taken into account for the purposes of housing subsidy.
- [<sup>F523</sup>(3) A determination may be made for all new town corporations or different determinations may be made for individual corporations; and a determination may be varied or revoked in relation to all or any of the corporations for which it was made.]
- (4) Before making a determination for all [<sup>F524</sup>new town corporations] the Secretary of State shall consult organisations appearing to him to be representative of [<sup>F524</sup>new town corporations].

#### Textual Amendments

**F521** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 80(1)**

**F522** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 80(2)**

**F523** S. 424(3) substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 80(3)**

**F524** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 80(4)**

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

**C120** Ss. 421–427A: by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 79(3) it is provided that sections 421 to 427A of the Housing Act 1985 (which are superseded, in their application to local

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housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

#### 425 The local contribution differential.

- (1) A [<sup>F525</sup>new town corporation's] local contribution differential for a year of account is the amount by which their reckonable income for that year exceeds their reckonable income for the preceding year (and accordingly is nil or, as the case may be, a negative amount if their reckonable income for the year is the same as or less than that for the preceding year).
- (2) [<sup>F526</sup>A corporation's] reckonable income for a year is the amount which, in accordance with any determination made by the Secretary of State, the [<sup>F527</sup>corporation] are assumed to receive for that year as income which they are required to carry to their [<sup>F526</sup>housing account] including—
  - (a) any contribution made by the [<sup>F527</sup>corporation] out of their [<sup>F526</sup>general revenue account], and
  - (b) any rent rebate subsidy payable under [<sup>F528</sup>section 30 of the Social Security Act 1986],
 but excluding any other subsidy, grant or contribution.
- (3) A determination shall state the assumptions on which it is based and the method of calculation used in it, and in making it the Secretary of State shall have regard, amongst other things, to past and expected movements in incomes, costs and prices.
- [<sup>F529</sup>(4) A determination may be made for all new town corporations or different determinations may be made for different corporations or groups of corporations.]
- (5) Before making a determination for all [<sup>F530</sup>new town corporations] the Secretary of State shall consult organisations appearing to him to be representative of [<sup>F530</sup>new town corporations].
- (6) A determination shall be made known to the [<sup>F531</sup>corporations] for which it is made in the year preceding the year of account for which it is to have effect.

#### Textual Amendments

- F525** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(1\)](#)
- F526** Words substituted by [Local Government and Housing Act 1989 \(c.42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(2\)](#)
- F527** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(2\)](#)
- F528** Words substituted by [Social Security Act 1986 \(c. 50, SIF 113:1\), s. 86\(1\), Sch. 10 Pt. I para. 58](#)
- F529** S. 425(4) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(3\)](#)
- F530** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(4\)](#)
- F531** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 81\(5\)](#)



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

**C121** Ss. 421–427A: by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 79\(3\)](#) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

#### **[<sup>F532</sup>426 Calculation of housing subsidy for Board.**

- (1) Sections 422 to 425 (calculation of housing subsidy) apply in relation to the Development Board for Rural Wales as they apply in relation to new town corporations, but subject to subsections (2) and (3).
- (2) Section 425(2)(a) (reckonable income to include contributions from corporation's general revenue account) has effect with the substitution for the reference to any contribution made by the corporation out of their general revenue account of a reference to any contribution made by the Board out of revenue.
- (3) The consultation required by section 424(4) or 425(5) (consultation before making general determinations) shall be with the Board.]

#### **Textual Amendments**

**F532** [S. 426](#) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 194\(1\)](#), [Sch. 11 para. 82](#)

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

**C122** Ss. 421–427A: by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 79\(3\)](#) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

#### **427 Recoupment of subsidy in certain cases.**

- (1) Where housing subsidy has been paid to a [<sup>F533</sup>new town corporation or the Development Board for Rural Wales] and it appears to the Secretary of State that—
  - (a) the purpose for which it was paid has not been fulfilled or not completely or adequately or not without unreasonable delay, and
  - (b) that the case falls within rules published by him,he may recover from [<sup>F533</sup>that body] the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) A sum recoverable under this section may, without prejudice to other methods of recovery, be recovered by withholding or reducing housing subsidy.
- (3) The withholding or reduction under this section of housing subsidy for a year does not affect the base amount for the following year.

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#### Textual Amendments

**F533** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 83**

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

**C123** Ss. 421–427A: by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 79(3) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

### <sup>F534</sup> **427A Entitlement to subsidy in case of land subject to management agreement.**

The fact that a [<sup>F535</sup>new town corporation or the Development Board for Rural Wales] has entered into a management agreement, and any letting of land in connection with such an agreement—

- (a) shall be disregarded in determining [<sup>F535</sup>that body's] reckonable income or expenditure for the purposes of housing subsidy, and
- (b) shall not be regarded as a ground for recovering, withholding or reducing any sum under section 427 (recoupment of housing subsidy).]

#### Textual Amendments

**F534** S. 427A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 32**

**F535** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 84**

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

**C124** Ss. 421–427A: by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 79(3) it is provided that [sections 421 to 427A](#) of the Housing Act 1985 (which are superseded, in their application to local housing authorities, by that section 79 and sections 80 and 86 of that 1989 Act) shall cease to apply in relation to such authorities

### *Borrowing powers*

#### **428 Continuance of certain powers to borrow for housing purposes.**

- (1) A local authority may borrow for any of the purposes for which borrowing was, before the commencement of this Act, authorised by—
  - section 136(1) of the <sup>M74</sup>Housing Act 1957,
  - section 54(1) of the <sup>M75</sup>Housing (Financial Provisions) Act 1958, or
  - paragraph 19 of Schedule 8 to the <sup>M76</sup>Housing Act 1969.
- (2) The maximum period which may be sanctioned as the period for which money may be borrowed for any of those purposes by the Common Council of the City of London is 80 years, notwithstanding the provisions of any Act of Parliament.

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#### Marginal Citations

M74 1957 c. 56.

M75 1958 c. 42.

M76 1969 c. 33.

#### Miscellaneous

#### 429 The improvement for sale scheme.

- (1) The Secretary of State may, with the consent of the Treasury, make schemes for making contributions to the net cost (as determined under the schemes) to local housing authorities of disposing of dwellings where the authority—
  - (a) disposes of a house as one dwelling,
  - (b) divides a house into two or more separate dwellings and disposes of them, or
  - (c) combines two houses to form one dwelling and disposes of it,after carrying out works of repair, improvement or conversion.
- (2) The cost towards which contributions may be made under such a scheme shall not exceed, for any one dwelling—
  - (a) in respect of a dwelling in Greater London, £10,000.
  - (b) elsewhere, £7,500,or such other amount as may be prescribed by order of the Secretary of State made with the consent of the Treasury.
- (3) An order under this section—
  - (a) may make different provision in respect of different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section “house” includes a flat.

#### <sup>F536</sup>429A Housing management: financial assistance etc.

- (1) The Secretary of State may, with the consent of the Treasury, give financial assistance—
  - (a) to persons managing public sector or former public sector housing, and
  - (b) to persons seeking to facilitate or encourage improvements in, or providing services in connection with, the management of such housing;and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.
- (2) For this purpose—
  - (a) “public sector housing” means housing accommodation in which an authority or body within section 80 (the landlord condition for secure tenancies) [<sup>F537</sup> or subsection (2A)] has an interest by virtue of which it receives a rack-rent, or would do so if the premises were let at a rack-rent; and

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- (b) “former public sector housing” means housing accommodation in which such an authority, or a predecessor of such an authority or an authority abolished by the Local Government Act 1985 formerly had such an interest.

[ Subsection (2)(a) applies to the following bodies—

- <sup>F537</sup>(2A) (a) the Housing Corporation;  
(b) Housing for Wales;  
(c) a housing trust which is a charity;  
(d) a registered housing association other than a co-operative housing association;  
and  
(e) an unregistered housing association which is a co-operative housing association.]

- (3) The Secretary of State may, with the consent of the Treasury, give financial assistance—  
(a) to persons providing educational or training courses in housing management,  
(b) to persons providing services for those providing such courses, and  
(c) to persons providing financial or other assistance for those attending such courses;

and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.

- (4) Financial assistance given by the Secretary of State under subsection (1) or (3) may be given in any form, and may in particular be given by way of grants, loans or guarantees or by incurring expenditure for the benefit of the person assisted; but the Secretary of State shall not in giving such assistance purchase loan or share capital in a company.
- (5) Financial assistance may be given and other payments made on such terms as the Secretary of State, with the consent of the Treasury, considers appropriate; and the terms may, in particular, include provision as to the circumstances in which the assistance or other payment must be repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.
- (6) A person receiving financial assistance under this section shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.]

#### Textual Amendments

**F536** S. 429A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 16

**F537** S. 429A(2A) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 54](#)

430

— . . . <sup>F538</sup>

#### Textual Amendments

**F538** S. 430 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(2), [Sch. 12 Pt. I](#)

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#### **431 Control of expenditure by housing authorities on works of conversion or improvement.**

- (1) A local authority or new town corporation may not incur expenses in—
  - (a) providing dwellings by the conversion of houses or other buildings, or
  - (b) carrying out works required for the improvement of dwellings, with or without associated works of repair,except in accordance with proposals submitted by the authority or corporation to the Secretary of State and for the time being approved by him.
- (2) The Secretary of State’s approval may be given subject to such conditions, and may be varied in such circumstances, as appear to him to be appropriate; but before varying the terms of an approval he shall consult the authority or corporation concerned.
- (3) In this section “dwelling” has the same meaning as in Part XV (grants for works of improvement, repair and conversion).

#### **432 Superseded contributions, subsidies, grants, and other financial matters.**

The provisions of Schedule 15 have effect with respect to superseded contributions, subsidies, grants and other financial matters, as follows—

Part I—Loans under the Housing (Rural Workers) Acts 1926 to 1942.

Part II—Exchequer contributions for agricultural housing.

Part III—Contributions for improvement of dwellings by housing authorities.

Part IV—Town development subsidy.

#### *Supplementary*

#### **433 Minor definitions.**

In this Part—

“year” means a period of twelve months beginning on a 1st April.

#### **434 Index of defined expressions: Part XIII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

base amount	section 423
[ <sup>F539</sup> charity]	[ <sup>F539</sup> section 622]
[ <sup>F539</sup> co-operative housing association]	[ <sup>F539</sup> section 5(2)]
development corporation	section 4(c)
<sup>F540</sup>	<sup>F540</sup>
<sup>F540</sup>	<sup>F540</sup>
...	...

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F540	F540
[ <sup>F539</sup> housing association]	[ <sup>F539</sup> section 5(1)]
housing authority	section 4(a)
housing costs differential	section 424
⋮	⋮
F540	F540
⋮	⋮
F540	F540
housing subsidy	section 421(1)
[ <sup>F539</sup> housing trust]	[ <sup>F539</sup> section 6]
⋮	⋮
F540	F540
local authority	section 4(e)
local contribution differential	section 425
local housing authority	section 1, 2(2)
[ <sup>F541</sup> management agreement]	[ <sup>F541</sup> sections 27(2) and 27B(4)]
new town corporation	section 4(b)
receiving authority (in Part IV of Schedule 15)	paragraph 6 of that Part
year	section 433
year of account (in relation to housing subsidy)	section 422

#### Textual Amendments

**F539** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 55**

**F540** Entries repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II Note 2**

**F541** Entry inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 33**

## PART XIV

### LOANS FOR ACQUISITION OR IMPROVEMENT OF HOUSING

#### *Local authority mortgages*

#### **435 Power of local authorities to advance money.**

- (1) A local authority may advance money to a person for the purpose of—
- (a) acquiring a house,
  - (b) constructing a house,

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- (c) converting another building into a house or acquiring another building and converting it into a house, or
  - (d) altering, enlarging, repairing or improving a house,
- or for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.
- (2) The authority may make an advance notwithstanding that it is intended that some part of the premises will be used, or continue to be used, otherwise than as a dwelling if it appears to the authority that the principal effect of making the advance would be to meet the applicant's housing needs; and in such a case the premises shall be treated as a building to be converted into a house.
  - (3) The authority may make advances whether or not the houses or buildings are in the authority's area.
  - (4) An advance may be made in addition to assistance given by the authority in respect of the same house under any other Act or any other provision of this Act.

#### **436 Terms of advance.**

- (1) The provisions of this section have effect with respect to the terms of advances under section 435.
- (2) The advance, together with the interest on it, shall be secured by a mortgage of the land concerned; and an advance shall not be made unless the estate proposed to be mortgaged is either—
  - (a) an estate in fee simple absolute in possession, or
  - (b) an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.
- (3) The amount of the principal of the advance shall not exceed the value of the mortgage security or, as the case may be the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out; and the advance shall not be made except after a valuation duly made on behalf of the authority.
- (4) Where the advance is for any of the purposes specified in section 435(1)(b) to (d) (construction, conversion, alteration, enlargement, repair or improvement) it may be made by instalments from time to time as the works progress.
- (5) The mortgage deed shall provide—
  - (a) for repayments of the principal either by instalments of equal or unequal amounts, beginning on the date of the advance or at a later date, or at the end of a fixed period (with or without a provision allowing the authority to extend the period) or on the happening of a specified event before the end of that period, and
  - (b) for the payment of instalments of interest throughout the period beginning on the date of the advance and ending when the whole of the principal is repaid; but subject to section 441 (waiver or reduction of payments in case of property requiring repair or improvement) and to section 446(1)(b) (assistance for first time buyers: part of loan interest-free for up to five years).

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- (6) The mortgage deed shall also provide that, notwithstanding the provisions referred to in subsection (5), the balance for the time being unpaid—
- (a) shall become repayable on demand by the authority in the event of any of the conditions subject to which the advance is made not being complied with, and
  - (b) may, in any event, be repaid on one of the usual quarter-days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the authority.

**437 Power of local authority on disposal to leave amount outstanding on mortgage.**

On the disposal of a house under section 32 (disposal by local authority of land held for purposes of Part II—

- (a) by way of sale, or
- (b) by the grant or assignment of a lease at a premium

the local authority may agree to the price or premium, or part of it, and any expenses incurred by the purchaser, being secured by a mortgage of the premises.

**438 Local authority mortgage interest rates.**

- (1) Where after 3rd October 1980 a local authority—
- (a) advance money for any of the purposes mentioned in section 435, or
  - (b) on the disposal of a house allow, or have to allow, a sum to be left outstanding on the security of the house, or
  - (c) take a transfer of a mortgage in pursuance of section 442 (agreement by local authority to indemnify mortgagee),
- the provision made by them with respect to interest on the sum advanced or remaining outstanding shall comply with the provisions of Schedule 16.
- (2) This section does not prevent a local authority from giving assistance in the manner provided by—
- section 441 (waiver or reduction of payments in case of property requiring repair or improvement), or
  - section 446(1)(b) (assistance for first-time buyers: part of loan interest-free for up to five years).
- (3) This section does not apply to loans made by local authorities under—
- section 228 (duty to make loans for improvements required by improvement notice), or
  - section 58(2) of the <sup>M77</sup>Housing Associations Act 1985 (financial assistance for housing associations).

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

C125 S. 438 excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\), s. 24\(4\)](#)

**Marginal Citations**

M77 1985 c. 68.



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#### **439 Requirements as to fitness of premises, &c.**

- (1) Before advancing money under section 435 for the purpose specified in subsection (1) (a) (acquisition of a house), the authority shall satisfy themselves that the house to be acquired is, or will be made, in all respects fit for human habitation.
- (2) Before advancing money for any of the purposes specified in subsection (1)(b) to (d) of that section (construction, conversion, alteration, enlargement, repair or improvement), the authority shall satisfy themselves that the house concerned will when the relevant works have been completed be in all respects fit for human habitation.
- (3) An advance shall not be made for the purpose specified in the closing words of section 435(1) (repayment of previous loan), unless the authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either—
  - (a) to retain an interest in the house concerned, or
  - (b) to carry out such works in relation to the building or house concerned as would be eligible for an advance under paragraph (c) or (d) of that subsection (conversion, alteration, enlargement, repair or improvement).

#### **440 Deposits in respect of maintenance or repair of mortgaged premises.**

A local authority by whom has been advanced on the mortgage of a house in pursuance of any enactment may accept the deposit by the mortgagor of the sums estimated to be required for the maintenance or repair of the mortgaged premises, and may pay interest on sums so deposited.

#### **441 Waiver or reduction of payments in case of property requiring repair or improvement.**

- (1) Where a local authority—
  - (a) advance money for the acquisition of a house which is in need of repair or improvement, or
  - (b) on the disposal of a house which is in need of repair or improvement allow, or have to allow, a sum to be left outstanding on the security of the house,they may, if the conditions stated in subsection (2) are satisfied, give assistance in accordance with this section to the person acquiring the house.
- (2) The conditions are—
  - (a) that the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be prescribed, and
  - (b) that the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (3) The assistance shall take the form of making provision—
  - (a) for waiving or reducing the interest payable on the sum advanced or remaining outstanding, and
  - (b) for dispensing with the repayment of principal,

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for a period ending not later than five years after the date of the advance or, as the case may be, the date of the disposal.

- (4) In this section “prescribed” means prescribed by order of the Secretary of State made with the consent of the Treasury.
- (5) An order—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Local authority assistance in connection with mortgages*

**442 Agreement by local authority to indemnify mortgagee.**

- (1) A local authority may, with the approval of the Secretary of State, enter into an agreement with—
- (a) a building society lending on the security of a house, or
  - (b) a recognised body making a relevant advance on the security of a house,
- whereby, in the event of default by the mortgagor, and in the circumstances and subject to conditions specified in the agreement, the authority binds itself to indemnify the society or body in respect of the whole or part of the mortgagor’s outstanding indebtedness and any loss or expense falling on the society or body in consequence of the mortgagor’s default.
- (2) The agreement may also, if the mortgagor is made party to it, enable or require the authority in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society or recognised body being then discharged in respect of them.
- (3) The transfer may be made to take effect—
- (a) on terms provided for by the agreement (including terms involving the substitution of a new mortgage agreement or modification of the existing one), and
  - (b) so that the authority is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.
- (4) The Secretary of State may approve particular agreements or give notice that particular forms of agreement have his approval, and in either case may make his approval subject to conditions.
- (5) The Secretary of State shall before giving notice that a particular form of agreement has his approval consult—
- (a) in the case of a form of agreement with a building society, the [F542Building Societies Commission] and such organisations representative of building societies and local authorities as the Secretary of State thinks expedient;
  - (b) in the case of a form of agreement with a recognised body, such organisations representative of recognised bodies and local authorities as he thinks expedient.

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#### Textual Amendments

**F542** Words substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)**, 120(1), Sch. 18 Pt. I para. 18(2)

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

- C126** [S. 442](#) amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 61**  
[S. 442](#) extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(d)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C127** [S. 422\(1\)\(a\)](#) amended by S.I. 1986/148, **art. 10(1)**

### 443 Local authority contributions to mortgage costs.

- (1) A local authority may contribute towards costs incurred by a person in connection with a legal charge which secures, or a proposed legal charge which is intended to secure, a relevant advance made or proposed to be made to him by a building society or recognised body.
- (2) The contribution shall not exceed such amount as may be specified by order of the Secretary of State.
- (3) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

**C128** [S. 443](#) extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(d)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

### 444 Recognised bodies and relevant advances for purposes of ss. 442 and 443.

- (1) The expression “recognised body” in sections 442 and 443 (agreements to indemnify mortgagees and contributions to mortgage costs) means a body specified, or of a class or description specified, by order of the Secretary of State made with the consent of the Treasury.
- (2) An order shall be made by statutory instrument.
- (3) Before making an order varying or revoking a previous order the Secretary of State shall give an opportunity for representations to be made on behalf of a body which, if the order were made, would cease to be a recognised body.
- (4) the expression “relevant advance” in those sections means an advance made to a person whose interest in the house on the security of which the advance is made is, or was, acquired <sup>F543</sup>by virtue of a conveyance of the freehold, or a grant or assignment of a long lease, by—
  - [<sup>F543</sup>a local authority,
  - a new town corporation,
  - an urban development corporation,
  - the Development Board for Rural Wales,

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the [<sup>F544</sup>Corporation], or  
a registered housing association.]  
[<sup>F543</sup>a housing authority]

#### Textual Amendments

**F543** By [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 24(2), 57(2), **Sch. 5 Pt. II para. 34** it is provided that in s. 444(4) for the words from “by” to the end there is substituted (*prosp.*) “a housing authority”

**F544** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

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

**C129** [S. 444\(4\)](#) explained by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(1), **Sch. 3 para. 5(3)**

### *Assistance for first-time buyers*

#### **445 Advances to recognised lending institutions to assist first-time buyers.**

- (1) The Secretary of State may make advances to recognised lending institutions enabling them to provide assistance to first-time purchasers of house property in Great Britain where—
  - (a) the purchaser intends to make his home in the property,
  - (b) finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution, and
  - (c) the purchase price is within the prescribed limits.
- (2) In this section “prescribed” means prescribed by order of the Secretary of State.
- (3) An order—
  - (a) may prescribe different limits for properties in different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

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

**C130** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 171(1)(a)(2)**

#### **446 Forms of assistance and qualifying conditions.**

- (1) Assistance under section 445 (assistance for first-time buyers) may be given in the following ways—
  - (a) the secured loan may be financed by the Secretary of State to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan exceeds the loan value of the property);
  - (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to five years from the date of purchase; and

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- (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt) up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.
- (2) The purchaser qualifies for assistance under subsection (1)(a) and (b) (interest-free loan) by satisfying the following conditions with respect to his own savings—
  - (a) that he has been saving with a recognised savings institution for at least two years preceding the date of his application for assistance,
  - (b) that throughout the twelve months preceding that date he had at least £300 of such savings, and
  - (c) that by that date he has accumulated at least £600 of such savings;and he qualifies for assistance under subsection (1)(c) (bonus on savings) by satisfying the conditions specified in paragraphs (a) and (b) above.
- (3) The Secretary of State may allow for the conditions to be relaxed or modified in particular classes of case.
- (4) No assistance shall be given in any case unless the amount of the secured loan is at least £1,600 and amounts to not less than 25 per cent. of the purchase price of the property.
- (5) The Secretary of State may by order made with the consent of the Treasury—
  - (a) alter any of the money sums specified in this section;
  - (b) substitute a longer or shorter period for either or both of the periods mentioned in subsection (2)(a) and (b) (conditions as to savings);
  - (c) alter the condition in subsection (2)(c) so as to enable the purchaser to satisfy it with lesser amounts of savings and to enable assistance to be given in such a case according to reduced scales specified in the order;
  - (d) alter the percentage mentioned in subsection (4) (minimum secured loan).
- (6) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

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

**C131** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

**C132** S. 446(3) amended by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(3\)\(a\)](#)

**447 Recognised lending institutions.**

- (1) The lending institutions recognised for the purposes of section 445 (assistance for first-time buyers) are—
  - [<sup>F545</sup>building societies,]
  - local authorities,
  - new town corporations,
  - the Development Board for Rural Wales,
  - trustee savings banks
  - banks,
  - insurance companies, and
  - friendly societies.

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[<sup>F546</sup>Swansea Building Society]  
[<sup>F547</sup>Abbey Life Home Service Limited.  
Abbey Life Mortgage Securities Limited.  
Abbey Life Residential Loans Limited.  
General Portfolio Finance Limited.  
Royal London Homebuy Limited.]  
[<sup>F548</sup>Abbey Life Mortgage Finance Limited,  
Abbey Life Mortgage Loans Limited,  
CIS Mortgage Maker Limited]  
[<sup>F549</sup>Mortgage Express Ltd.]  
[<sup>F550</sup>Halifax Loans Limited  
BNP Mortgages Limited.]  
[<sup>F551</sup>Sun Life of Canada Home Loans Limited  
Halifax Loans (No.2) Limited  
Halifax Loans (No.3) Limited  
Halifax Loans (No.4) Limited.]

- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised lending institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

#### Textual Amendments

- F545** Words substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(1), **Sch. 18 Pt. I para. 18(3)**
- F546** Entry added by S.I. 1986/1489, **art. 2**
- F547** Entries added by S.I. 1988/84, **art. 2, Sch.**
- F548** Entries added by S.I. 1988/1723, **art. 2**
- F549** Entry added by S.I. 1989/956, **art. 2**
- F550** Entries added by S.I. 1989/2328, **art. 2**
- F551** Entries added by S.I. 1990/1387, **art. 2**

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

- C133** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 171(1)(a)(2)**
- C134** S. 447 amended by S.I. 1986/148, **art. 10(6)**
- C135** By S.I. 1987/1202, **art. 2, Sch.** the bodies “Yorkshire Bank Home Loans Limited” and “Abbey Life Home Loans Limited.” are specified for the purposes of section 447(2)
- C136** By S.I. 1987/1809, **art. 2, Sch.** the bodies “Abbey Life Executive Mortgages Limited.” and “Abbey Life Funding Limited.” are specified for the purposes of section 447(2)

### 448 Recognised savings institutions.

- (1) The savings institutions recognised for the purposes of section 446 (qualifying conditions as to savings) are—

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[<sup>F552</sup>building societies]  
local authorities  
trustee savings banks,  
banks,  
friendly societies,  
the Director of Savings, and  
the Post Office,  
[<sup>F553</sup>Swansea Building Society]

and savings institutions recognised for the purposes of the corresponding provisions in force in Scotland or Northern Ireland.

- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised savings institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

#### Textual Amendments

**F552** Words substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(1), [Sch. 18 Pt. I para. 18\(3\)](#)

**F553** Entry added by [S.I. 1986/1490, art. 2](#)

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

**C137** [Ss. 445–450](#): power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

### 449 Terms of advances and administration.

- (1) Advances to lending institutions under section 445 (assistance for first-time buyers) shall be on such terms as to repayment and otherwise as may be settled by the Secretary of State, with the consent of the Treasury, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Secretary of State.
- (2) The following matters, among others, may be dealt with in directions issued by the Secretary of State—
- (a) the cases in which assistance is to be provided;
  - (b) the method of determining the loan value of property for the purpose of section 446(1)(a) (limit on total loan);
  - (c) the method of quantifying bonus by reference to savings;
  - (d) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;
  - (e) the steps which must be taken with a view to satisfying the conditions in section 446(2) (conditions as to purchaser's own savings), and the circumstances in which those conditions are or are not to be treated as satisfied;

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- (f) the supporting evidence and declarations which must be furnished by a person applying for assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations;
  - (g) the way in which amounts paid over by way of assistance are to be repaid to the lending institutions and to the Secretary of State.
- (3) The Secretary of State may, to the extent that he thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given.

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

**C138** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

**[<sup>F554</sup>450 Modifications of building society law.**

So much of an advance by a building society which is partly financed under section 445 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions as is so financed shall be treated as not forming part of the advance for the purpose of determining—

- (a) whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society, and
- (b) the classification of the advance, or any such further advance, for the purposes of Part III of the Building Societies Act 1986.]

**Textual Amendments**

**F554** S. 450 substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), [ss. 54\(3\)\(a\)\(5\)](#), 120(1), Sch. 18 Pt. I para. 18(4)

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

**C139** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

VALID FROM 13/07/1992

*[<sup>F555</sup>Loans in respect of service charges]*

**Textual Amendments**

**F555** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [s. 5](#); S.I. 1992/1753, [art. 2\(1\)](#)

**450A** <sup>F556</sup>**Right to a loan in certain cases after exercise of right to buy.**

- (1) The Secretary of State may by regulations provide that where—



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- (a) a lease of a flat has been granted in pursuance of Part V (the right to buy), and  
(b) the landlord is the housing authority who granted the lease or another housing authority,
- the tenant has, in such circumstances as may be prescribed, a right to a loan in respect of service charges to which this section applies.
- (2) This section applies to service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land) which are payable in the period beginning with the grant of the lease and ending with the tenth anniversary of the grant or, where the lease provides for service charges to be payable by reference to a specified annual period, with the end of the tenth such period beginning after the grant of the lease.
- (3) The regulations may provide that the right—
- (a) arises only in respect of so much of a service charge as exceeds a minimum qualifying amount and does not exceed a maximum qualifying amount, and  
(b) does not arise unless the amount thus qualifying for a loan itself exceeds a minimum amount,
- the amounts being either prescribed or ascertained in a prescribed manner.
- (4) The regulations shall provide that the right is—
- (a) where the landlord is a housing association, a right to an advance from the [<sup>F557</sup>Corporation], and  
(b) in any other case, a right to leave the whole or part of the service charge outstanding.
- (5) The regulations may, as regards the procedure for exercising the right, provide—
- (a) that a demand for service charges in respect of repairs shall inform the tenant whether, in the landlord's opinion, he is entitled to a loan and, if he is, what he must do to claim it;  
(b) that the right must be claimed within a prescribed period of the demand; and  
(c) that on the right being claimed the lender shall inform the tenant of the terms of the loan and of the prescribed period within which the tenant may accept the offer.
- (6) In this section—
- “housing authority” includes any [<sup>F558</sup>registered housing association other than a co-operative housing association and any unregistered housing association which is a co-operative housing association; and]  
“repairs” includes works for making good a structural defect.

#### Textual Amendments

**F556** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 5; S.I. 1992/1753, [art.2\(1\)](#)

**F557** Word substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. II para. 106](#)

**F558** Words substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. I para. 56](#)

#### [<sup>F559</sup> **450B** Power to make loans in other cases.

- (1) The Secretary of State may by regulations provide that where—

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- (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority, and
- (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land),

the landlord or, where the landlord is a housing association, the [F560Corporation] may, in such circumstances as may be prescribed, make a loan to the tenant in respect of the service charges.

(2) The regulations shall provide that the power is—

- (a) where the landlord is a housing association, a power of the [F560Corporation] to make an advance, and
- (b) in any other case, a power of the landlord to leave the whole or part of the service charge outstanding.

(3) Where the tenant is entitled to a loan in pursuance of regulations under section 450A, the power conferred by regulations under this section may be exercised in respect of any part of the service charge which does not qualify for a loan under that section.

(4) In this section—

“housing authority” includes any [F561registered housing association other than a co-operative housing association and any unregistered housing association which is a co-operative housing association; and]

“repairs” includes works for making good a structural defect.

(5) This section does not affect any other power of the landlord, or the [F560Corporation], to make loans.]

#### Textual Amendments

**F559** Ss. 450A, 450B, 450C and cross heading inserted (13.07.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 5; S.I. 1992/1753, art.2(1)

**F560** Word substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. II para. 106](#)

**F561** Words substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. I para. 57](#)

#### [F562450C] **Supplementary provisions as to regulations under s. 450A or 450B.**

- (1) This section applies to regulations under section 450A or 450B (regulations conferring right to loan, or power to make loan, in respect of service charges).
- (2) The regulations may provide that the right or, as the case may be, the power does not arise in the case of any prescribed description of landlord.
- (3) The regulations shall provide that the loan—
  - (a) in the case of a loan made in pursuance of regulations under section 450A (the right to a loan), shall be on such terms as may be prescribed, and
  - (b) in the case of a loan made by virtue of regulations under section 450B (power to make loan), shall be on such terms as the lender may determine subject to any provision made by the regulations;

and shall, in either case, be secured by a mortgage of the flat in question, but may be made whether or not the flat is adequate security for the loan.

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- (4) The regulations may—
- (a) as regards the rate of interest payable on the loan, either prescribe the rate or provide that the rate shall be such reasonable rate as may be determined by the lender or, where the lender is a local authority, provide that Schedule 16 applies (local authority mortgage interest rates);
  - (b) as regards administrative expenses of the lender in connection with a loan, provide that the lender may charge such expenses to the borrower, to the extent that they do not exceed such amount as may be prescribed, and that the expenses so charged may, at the option of the borrower in the case of a loan under section 450A and at the option of the lender in the case of a loan under section 450B, be added to the amount of the loan.
- (5) The regulations may apply whenever the lease in question was granted or assigned and whenever the service charge in question became payable.
- (6) The regulations—
- (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F562** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), [s. 5](#); S.I. 1992/1753, [art.2\(1\)](#)

VALID FROM 01/12/2008

#### *<sup>F563</sup>Other financial assistance in respect of service charges*

#### Textual Amendments

**F563** [S. 450D](#) and crossheading inserted (1.12.2008 for E. for specified purposes, 6.4.2009 for E. in so far as not already in force, 26.7.2011 for W. for specified purposes, 19.8.2011 for W. so far as not already in force) by [Housing and Regeneration Act 2008](#) (c. 17), [ss. 309](#), 325(1); S.I. 2008/3068, [art. 4\(9\)](#) (with [arts. 6-13](#)); S.I. 2009/803, [art. 9](#); S.I. 2011/1863, [arts. 2, 3\(2\)](#)

#### **450D Purchase of equitable interests**

- (1) The appropriate national authority may by regulations provide that where—
- (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the housing authority or another housing authority, and
  - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs or improvements (whether to the flat, the building in which it is situated or any other building or land),

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the landlord may, with the agreement of the tenant and in such circumstances as may be prescribed, purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.

- (2) Regulations under this section shall ensure that the purchase price is to be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned.
- (3) Regulations under this section may, in particular—
  - (a) provide that the power to purchase an equitable interest does not arise in the case of particular descriptions of landlord;
  - (b) make provision about calculating the purchase price (including provision about any discounts and about imposing charges for the services of district valuers);
  - (c) provide for—
    - (i) the tenant to be liable for the administrative expenses of the landlord in connection with the purchase;
    - (ii) such expenses not to exceed such amount (if any) as may be specified in the regulations;
    - (iii) the purchase price to include, at the option of the purchaser, a deduction for such expenses;
  - (d) provide for an alteration, as a result of the purchase of the equitable interest, in the liability of the tenant for future service charges or improvement contributions.
- (4) Regulations under this section may not contain provision for cases where the Secretary of State or the Welsh Ministers are the landlord unless the Welsh Ministers are the landlord—
  - (a) as the result of the exercise by them of functions under Part 3 of the Housing Associations Act 1985; or
  - (b) as the result of—
    - (i) the exercise by the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation of functions under Part 3 of the Act of 1985; and
    - (ii) the transfer of the flat to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the Government of Wales Act 2006.
- (5) For the purposes of this section a long lease granted or assigned by—
  - (a) the Welsh Ministers, or
  - (b) in a case falling within subsection (4)(b), the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation, shall be taken to have been granted or assigned by a housing authority if (but only if) the person concerned granted or assigned it in exercise of its powers under section 90 of the Housing Associations Act 1985.
- (6) This section does not affect any other power of the landlord to purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.
- (7) Regulations under this section may apply whenever the lease concerned was granted or assigned and whenever the service charge concerned became payable.

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- (8) Regulations under this section—
- (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases or descriptions of case including different provision for different areas;
  - (c) may contain such incidental, supplementary and transitional provisions as the appropriate national authority considers appropriate.
- (9) An instrument containing regulations made under this section—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) In this section—
- “appropriate national authority” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;
  - “former National Assembly for Wales” means the Assembly constituted by the Government of Wales Act 1998;
  - “housing authority”—
    - (a) does not include a registered provider of social housing, or a registered social landlord, which is a co-operative housing association;
    - (b) includes a co-operative housing association which is neither a registered provider of social housing nor a registered social landlord;
  - “improvement contribution” has the same meaning as in Part 5 (see section 187);
  - “repairs” includes works for making good a structural defect.]

### *Miscellaneous*

#### **451 Loans by Public Works Loan Commissioners.**

- (1) The Public Works Loan Commissioners may lend money for the purpose of constructing or improving houses, or facilitating or encouraging the construction or improvement of houses, to any person entitled to land for an estate in fee simple absolute in possession or for a term of years absolute of which not less than 50 years remains unexpired.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a mortgage of—
- (a) the land in respect of which the purpose is to be carried out, and
  - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments from time to time as the building or other work on land mortgaged under subsection (2) progresses (so, however, that the total amounts

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lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so made.

- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) The period for repayment of the loan shall not exceed 40 years, and no money shall be lent on a mortgage of land or houses unless the estate proposed to be mortgaged is either a fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) This section does not apply to housing associations; but corresponding provision is made by section 67 of the <sup>M78</sup>Housing Associations Act 1985.

**Marginal Citations**

M78 1985 c. 69.

**452 Vesting of house in authority entitled to exercise power of sale.**

- (1) Where there has been a disposal of a house by a housing authority and—
  - (a) the authority is a mortgagee of the house,
  - (b) the conveyance or grant contains a pre-emption provision in favour of the authority, and
  - (c) within the period during which the pre-emption provision has effect the authority becomes entitled as mortgagee to exercise the power of sale conferred by section 101 of the <sup>M79</sup>Law of Property Act 1925 or the mortgage deed.

the provisions of Schedule 17 apply with respect to the vesting of the house in the authority.

- (2) In subsection (1)—
 

“disposal” means a conveyance of the freehold or a grant or assignment of a long lease;

[<sup>F564</sup> “housing authority” means—

a local authority,

a new town corporation,

an urban development corporation,

the Development Board for Rural Wales,

the [<sup>F565</sup>Corporation], or

a registered housing association;]

“pre-emption provision” means a covenant imposing a condition of the kind mentioned in section 33(2)(b) or (c) (right of pre-emption or prohibition of assignment), the limitation specified in section 157(4) (restriction on disposal of dwellings in National Parks, etc.), or any other provision to the like effect.
- (3) The vesting of a house under Schedule 17 shall be treated as a relevant disposal for the purposes of—

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- (a) the provisions of Parts II and V relating to the covenant required by section 35 or 155 (repayment of discount on early disposal), and
  - (b) any provision of the conveyance or grant to the like effect as the covenant required by those sections.
- (4) Where a conveyance or grant executed before 26th August 1984 contains both—
- (a) a pre-emption provision within the meaning of subsection (1), and
  - (b) the covenant required by section 35 or 155 (repayment of discount on early disposal) or any other provision to the like effect.
- the latter covenant or provision has effect as from that date with such modifications as may be necessary to bring it into conformity with the provisions of this section.
- (5) The preceding provisions of this section do not apply where the conveyance or grant was executed before 8th August 1980.
- (6) Where before 8th August 1980 a local authority sold property under the powers of section 104(1) of the <sup>M80</sup>Housing Act 1957 (disposal of houses provided under Part V of that Act) and—
- (a) part of the price was secured by a mortgage of the property,
  - (b) such a condition was imposed on the sale as was mentioned in section 104(3) (c) of that Act, and
  - (c) within the period during which the authority has the right to re-acquire the property they become entitled to exercise the power of sale conferred by section 101 of the <sup>M81</sup>Law of Property Act 1925 or by the mortgage deed,
- the provisions of Schedule 17 apply with respect to the vesting of the property in the authority, but subject to the modifications specified in paragraph 4 of that Schedule.

#### Textual Amendments

**F564** Definition repealed (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 24(2)(3), 57(2), [Sch. 5 Pt. II para. 35](#), [Sch. 12 Pt. I](#)

**F565** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

#### Marginal Citations

**M79** 1925 c. 20.

**M80** 1957 c. 56.

**M81** 1925 c. 20.

### 453 Further advances in case of disposal on shared ownership lease.

- (1) Where—
- (a) a lease of a house, granted otherwise than in pursuance of the provisions of part V (the right to buy) relating to shared ownership leases, contains a provision to the like effect as that required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right of tenant to acquire additional shares), and
  - (b) a housing authority has, in the exercise of any of its powers, left outstanding or advanced any amount on the security of the house.
- that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

[<sup>F566</sup>(2) In subsection (1) “housing authority” means—

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a local authority,  
 a new town corporation,  
 the Development Board for Rural Wales, or  
 a registered housing association.]

#### Textual Amendments

**F566** S. 453(2) repealed (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), ss. 24(2)(3), 57(2), Sch. 5 Pt. II para. 36, [Sch. 12 Pt. I](#)

#### 454 Exclusion of Restrictive Trade Practices Act: recommendations as to implementation of this Part.

Section 16(3) and (5) of the <sup>M82</sup>Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) do not apply to—

- (a) recommendations made to building societies or recognised bodies about the making of agreements under section 442 (local authority agreements to indemnify mortgagees) or the corresponding Northern Ireland provision, or
- (b) recommendations made to lending institutions and savings institutions about the manner of implementing sections 445 to 449 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions.

Provided that the recommendations are made with the approval of the Secretary of State, or, as the case may be, the Department of the Environment for Northern Ireland, which may be withdrawn at any time on one month's notice.

#### Marginal Citations

**M82** 1976 c. 34.

#### 455 Exclusion of Restrictive Trade Practices Act: agreements as to loans on security of new houses.

(1) In determining for the purposes of the Restrictive Trade Practices Act 1976 whether an agreement between building societies is one to which that Act applies by virtue of an order made, or having effect as if made, under section 11 of that Act (restrictive agreements as to services), no account shall be taken of any term (whether or not subject to exceptions) by which the parties or any of them agree not to grant loans on the security of new houses unless they have been built by or at the direction of a person who is registered with, or has agreed to comply with the standards of house building laid down or approved by, an appropriate body.

(2) In subsection (1)—

“appropriate body” means a body concerned with the specification and control of standards of house building which—

- (a) has its chairman, or the chairman of its board of directors or other governing body, appointed by the Secretary of State, and
- (b) promotes or administers a scheme conferring rights in respect of defects in the condition of houses on persons having or acquiring interest in them; and



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“new house” means a building or part of a building intended for use as a private dwelling and not previously occupied as such.

- (3) The reference in subsection (1) to a term agreed to by the parties or any of them includes a term to which the parties or any of them are deemed to have agreed by virtue of section 16 of the <sup>M83</sup>Restrictive Trade Practices Act 1976 (recommendations of services supply associations).

**Marginal Citations**

**M83** 1976 c. 34.

**456 Advances under the Small Dwellings Acquisition Acts.**

The provisions of Schedule 18 have effect with respect to advances made under the Small Dwellings Acquisition Acts 1899 to 1923 before the repeal of those Acts by the <sup>M84</sup>Housing (Consequential Provisions) Act 1985.

**Marginal Citations**

**M84** 1985 c. 71.

*Supplementary provisions*

**457 Meaning of “house” and “house property”.**

In this Part “house” includes—

- (a) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it, and
- (b) any part of a building which is occupied or intended to be occupied as a separate dwelling including, in particular, a flat;

and “house property” shall be construed accordingly.

**458 Minor definitions.**

In this Part—

“the corresponding Northern Ireland provisions” means—

- (a) in relation to section 442 (local authority agreements to indemnify mortgagees), Article 156 of the <sup>M85</sup>Housing (Northern Ireland) Order 1981;
- (b) in relation to sections 445 to 449 (assistance for first-time buyers), Part IX of that Order;

“the corresponding Scottish provisions”, in relation to sections 445 to 449 (assistance for first-time buyers), means [<sup>F567</sup>sections 222 to 228 of the Housing (Scotland) Act 1987];

<sup>F568</sup>

[<sup>F569</sup>“housing authority” includes any local authority, an urban development corporation, the [<sup>F570</sup>Corporation] and a registered housing association;]

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“long lease” means a lease creating a long tenancy within the meaning of section 115.

#### Textual Amendments

- F567** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 30(3)**
- F568** Definition repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(2), **Sch. 19 Pt. I**
- F569** In s. 458, definition of 'housing authority' inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 37**; S.I. 1992/1753, **art.2(2)** (with restriction in [Sch. para. 4](#))
- F570** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

#### Marginal Citations

- M85** [S.I. 1981/156 \(N.I. 3\)](#)

#### 459 Index of defined expressions: Part XIV.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
[ <sup>F571</sup> co-operative housing association]	[ <sup>F571</sup> section 5(2)]
[ <sup>F572</sup> the Corporation]	[ <sup>F572</sup> section 6A]
corresponding Northern Ireland provisions	section 458
corresponding Scottish provisions	section 458
<sup>F573</sup>	<sup>F573</sup>
district valuer	section 622
first time purchaser	section 449(2)(d)
fit for human habitation	section 604
friendly society	section 622
house	section 457
house property	section 457
housing association	section 5(1)
[ <sup>F574</sup> housing authority]	[ <sup>F574</sup> sections 4(a) and 458]
<sup>F575</sup>	<sup>F575</sup>
insurance company	section 622

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local authority	section 4(e)
long lease	sections 115 and 458
new town corporation	section 4(b)
ownership and proprietor (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraphs 9(2) and (3) of Schedule 18
recognised body	section 444(1)
recognised lending institution	section 447
recognised savings institution	section 448
registered housing association	section 5(4)
residence (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 9(1) of Schedule 18
[ <sup>F574</sup> service charge]	[ <sup>F574</sup> section 621(A)]
statutory conditions (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 2 of Schedule 18
trustee savings bank	section 622
urban development corporation	section 4(d)

**Textual Amendments**

- F571** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 58**
- F572** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 112**
- F573** Entry repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(2), **Sch. 19 Pt. I**
- F574** Entries in s. 459 inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 38**; S.I. 1992/1753, **art.2(2)** (with restriction in Sch. para. 4)
- F575** Entry repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II Note 2**

**PART XV**

GRANTS FOR WORKS OF IMPROVEMENT, REPAIR AND CONVERSION

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

- C140 Pt. XV** (ss. 460–526) modified by S.I. 1986/148, **art. 10(4)(b)**

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**Textual Amendments**  
**F576** Ss. 460–520 repealed (1.7.1990) and superseded by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 101(5), 194(4), **Sch. 12 Pt. II** (subject to a saving in [S.I. 1990/1274](#), art. 3, **Sch. para. 2** in relation to certain applications approved before 1.7.1990) and subject to amendment made by [S.I. 1994/2825](#), **reg. 54**

**521,** ..... <sup>F577</sup>  
**522.**

**Textual Amendments**  
**F577** Ss. 521, 522 repealed and superseded by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

*Miscellaneous*

**523 Assistance for provision of separate service pipe for water supply.**

- (1) The local housing authority may, if they think fit, give assistance in respect of the provision of a separate service pipe for a house which has a piped supply of water from a water main but no separate service pipe.
- (2) The assistance shall be by way of a grant in respect of all or part of the expenses incurred in the provision of the separate service pipe.
- (3) The reference in subsection (2) to the expenses incurred in the provision of the separate service pipe includes, in a case where all or part of the works are carried out by . . . <sup>F578</sup> water undertakers (whether in exercise of default powers or otherwise), sums payable to the undertakers by the owner of the house, or any other person, for carrying out the works.

**Textual Amendments**  
**F578** Word repealed (with saving) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190(2)(3), 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27 Pt. I**

[<sup>F579</sup> **524 Contributions under superseded enactments.**

Schedule 19 has effect with respect to contributions payable under superseded enactments.]

**Textual Amendments**  
**F579** Ss. 524, 525 repealed and superseded (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 194(4), 195(2), **Sch. 12 Pt. II**

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[<sup>F580</sup> General supplementary provisions]

**Textual Amendments**

**F580** Ss. 524, 525 repealed and superseded (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 194(4), 195(2), [Sch. 12 Pt. II](#)

**525 Minor definitions.**

In this Part—

“agricultural population” means—

- (a) persons whose employment or latest employment is or was employment in agriculture or in an industry mainly dependent on agriculture, and
- (b) the dependents of those persons;

and for this purpose “agriculture” includes dairy-farming and poultry-farming and the use of land as grazing, meadow or pasture land, or orchard or osier land or woodland, or for market gardens or nursery grounds;

“charity trustees” has the same meaning as in the <sup>M86</sup>Charities Act 1960;

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“house in multiple occupation” means a house which is occupied by persons who do not form a single household, exclusive of any part of the house which is occupied as a separate dwelling by persons who form a single household;

“improvement” includes alteration and enlargement;

“owner”, in relation to a dwelling, means the person who—

- (a) is for the time being entitled to receive from a lessee of the dwelling (or would be so entitled if the dwelling were let) a rent of not less than two-thirds of the net annual value of the dwelling; and
- (b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord.

**Marginal Citations**

**M86** 1960 c. 58.

[<sup>F581</sup> **526 Index of defined expressions: Part XV**

The following Table shows provisions defining or otherwise explaining expressions used in this part (other than provisions defining or explaining an expression in the same section):—

agricultural population	section 525
applicant	section 515(1)
appropriate percentage	section 509
certificate of availability for letting	section 464(5)

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certificate of owner-occupation	section 464(3), (4)
certified date	section 499(3)
charity	section 622
charity trustees	section 525
[ <sup>F582</sup> common parts (for the purposes of common parts grant)]	[ <sup>F582</sup> section 498A(2)(b)]
[ <sup>F582</sup> common parts grant]	[ <sup>F582</sup> section 460 and 498A]
co-operative housing association	section 5(2)
district (of a local housing authority)	section 2(1)
dwelling	section 525
dwelling for a disabled occupant	section 518
eligible expense	sections 472, 481, 489 and [ <sup>F583</sup> ,497 and 498F]
fit for human habitation	section 604
[ <sup>F584</sup> flat (for the purposes of common parts grant)]	[ <sup>F584</sup> section 498A(2)(a)]
general improvement area	section 253
grant (without more)	section 460(1)
house in multiple occupation	section 525
housing action area	section 239
housing association	section 5(1)
housing authority	section 4(a)
improvement	section 518(3) and 525
improvement grant	sections 460 and 467
initial period	section 499(2)
intermediate grant	sections 460 and 474
lessee and let	section 621
local housing authority	section 1, 2(2)
[ <sup>F585</sup> long tenancy]	[ <sup>F585</sup> section 115]
member of family	section 520
owner	section 525
protected occupancy	section 622
protected tenancy	section 622
reasonable repair	section 519
registered and unregistered (in relation to a housing association)	section 5(4)

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relevant works	section 461(2)
repairs grant	sections 460 and 491
restricted contract	section 622
secure tenancy	section 79
special grant	section 460 and 483
standard amenity	section 508(1)
statutory tenancy	section 622
tenancy and tenant	section 621]

#### Textual Amendments

- F581** S. 526 repealed and superseded (*prosp.*) by Local Government and Housing Act 1989 (c.42, SIF 61), ss. 101(5), 194(4), 195(2), **Sch. 12 Pt. II**
- F582** Entries inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 15, **Sch. 3 Pt. I para. 14(2)**
- F583** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 15, **Sch. 3 Pt. I para. 14(3)**
- F584** Entry inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 15, **Sch. 3 Pt. I para. 14(2)**
- F585** Entry inserted by Housing Act 1988 (c. 50, SIF 61), s. **131(6)**

## PART XVI

### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

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

- C141** Pt. XVI (Ss. 527–577) amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 61**
- C142** Pt. XVI (Ss. 527–577) modified by S.I. 1986/797, **regs. 2, 3–18**
- C143** Pt. XVI (Ss. 527–577): power to apply certain functions conferred by Housing Act 1988 (c. 50, SIF 61), s. **65(2)(a)(4)**  
Pt. XVI (ss. 527-577) extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 21(e)** (with ss. 54(5)(7), 55(5))  
Pt. XVI (ss. 527-577) modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(d)**

#### *Eligibility for assistance*

#### **527 Eligibility for assistance.**

A person is eligible for assistance under this Part in respect of a dwelling if—

- he is an individual who is not a trustee, a trustee for beneficiaries who are all individuals or a personal representative,
- the dwelling is a defective dwelling within the meaning of this Part by virtue of a designation under section 528 (designation by Secretary of State) or section 559 (designation under local scheme),
- he holds a relevant interest in the dwelling, as defined in section 530, and

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- (d) the conditions specified in section 531 (conditions of eligibility: disposal by public sector authority, &c.) are satisfied; but subject to section 533 (exceptions to eligibility).

## **528 Designation of defective dwellings by Secretary of State.**

- (1) The Secretary of State may designate as a class buildings each of which consists of or includes one or more dwellings if it appears to him that—
  - (a) buildings in the proposed class are defective by reason of their design or construction, and
  - (b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.
- (2) A dwelling which is, or is included in, a building in a class so designated is referred to in this Part as a “defective dwelling”; and in this Part, in relation to such a dwelling—
  - (a) “the qualifying defect” means what, in the opinion of the Secretary of State, is wrong with the buildings in that class, and
  - (b) “the cut-off date” means the date by which, in the opinion of the Secretary of State, the circumstances mentioned in subsection (1)(a) became generally known.
- (3) A designation shall describe the qualifying defect and specify—
  - (a) the cut-off date,
  - (b) the date (being a date falling on or after the cut-off date) on which the designation is to come into operation, and
  - (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.
- (4) A designation may make different provision in relation to England and Wales; subject to that, a designated class shall not be described by reference to the area in which the buildings concerned are situated.
- (5) Notice of a designation shall be published in the London Gazette.
- (6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the Secretary of State.

## **529 Variation or revocation of designation.**

- (1) The Secretary of State may—
  - (a) vary a designation under section 528, but not so as to vary the cut-off date, or
  - (b) revoke such a designation.
- (2) The Secretary of State may by a variation of the designation extend the period referred to in section 528(3)(c) (period within which assistance must be applied for) whether or not it has expired.
- (3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and an application for assistance under this Part has been made.



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- (4) Notice of the variation or revocation of a designation shall be published in the London Gazette.

**530 Meaning of “relevant interest”.**

- (1) In this Part “relevant interest”, in relation to a dwelling, means the freehold or a long tenancy, not being in either case subject to a long tenancy.
- (2) A tenancy is a long tenancy for this purpose, subject to subsection (3), if it is—
- (a) a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture or otherwise,
  - (b) a tenancy granted in pursuance of Part V (the right to buy), or
  - (c) a tenancy for a term fixed by law under a grant with a covenant or obligation for perpetual renewal, unless it is a tenancy by sub-demise from one which is not a long tenancy.
- (3) A tenancy is not a long tenancy for this purpose if it is—
- (a) an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise, or
  - (b) a secure tenancy.
- (4) References in this part to an interest in a dwelling are to an interest in land which is or includes the dwelling.

**531 Conditions of eligibility: disposal by public sector authority, &c.**

- (1) The conditions referred to in section 527(d) (eligibility for assistance) are that there has been a disposal by a public sector authority of a relevant interest in the dwelling and that either of the following sets of conditions is satisfied.
- (2) The first set of conditions is that—
- (a) the disposal by a public sector authority was made before the cut-off date, and
  - (b) there has been no disposal for value by any person of a relevant interest in the dwelling on or after that date.
- (3) The second set of conditions is that—
- (a) a person to whom section 527 applies acquired a relevant interest in the dwelling on a disposal for value occurring within the period of twelve months beginning with the cut-off date,
  - (b) he was unaware on the date of the disposal of the association of the dwelling with the qualifying defect,
  - (c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect, and
  - (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.
- (4) For the purposes of this section where a public sector authority hold an interest in a dwelling a disposal of the interest by or under an enactment shall be treated as a disposal by the authority.

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### 532 Construction of references to disposal, &c.

- (1) References in this Part to a disposal include a part disposal; but for the purposes of this Part a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling only if on the disposal the person to whom it is made acquires a relevant interest in the dwelling.
- (2) Where an interest in land is disposed of under a contract, the time at which the disposal is made is, for the purposes of this Part—
  - (a) if the contract is unconditional, the time at which the contract is made, and
  - (b) if the contract is conditional (and in particular if it is conditional on the exercise of an option), the time when the condition is satisfied;
 and not, if different, the time at which the interest is conveyed.
- (3) Reference in this Part to a disposal of an interest for value are to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.
- (4) In relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references in this Part to a previous disposal of an interest in the dwelling include a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired.

### 533 Exceptions to eligibility.

- (1) A person who holds a relevant interest in a defective dwelling is not eligible for assistance in respect of the dwelling at any time when that interest is subject to the rights of a person who is a protected occupier or statutory tenant within the meaning of the <sup>M87</sup>Rent (Agriculture) Act 1976 [<sup>F586</sup> or who occupies the dwelling under an assured agricultural occupancy which is not an assured tenancy].
- (2) A person is not eligible for assistance in respect of a defective dwelling if the local housing authority are of the opinion—
  - (a) that work to the building which consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
  - (b) that on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

#### Textual Amendments

**F586** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 59](#)

#### Marginal Citations

**M87** [1976 c. 80.](#)

### *Determination of entitlement*

### 534 Application for assistance.

A person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the local housing authority within a period specified in the relevant designation.

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### **535 Application not to be entertained where grant application pending or approved.**

- (1) The local housing authority shall not entertain an application for assistance under this Part if—
  - (a) an application has been made in respect of the defective dwelling (whether before or after the relevant designation came into operation) for an improvement grant, intermediate grant, special grant [F587 or repairs grant] [F587 repairs grant or common parts grant] under Part XV, and
  - (b) the relevant works in relation to that grant include the whole or part of the work required to reinstate the dwelling,unless the grant application has been refused or has been withdrawn under subsection (2) or the relevant works have been completed.
- (2) Where a person has applied for such a grant in respect of a dwelling and—
  - (a) the dwelling is a defective dwelling, and
  - (b) the relevant works include the whole or part of the work required to reinstate it,he may withdraw his application, whether or not it has been approved, if the relevant works have not been begun.
- (3) In this section “relevant works”, in relation to a grant, has the same meaning as in Part XV.

#### **Textual Amendments**

**F587** Words “repairs grant or common parts grant” substituted (*prosp.*) for words “or repairs grant” by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 15, Sch. 3 Pt. II para. 19](#)

### **536 Determination of eligibility.**

- (1) A local housing authority receiving an application for assistance under this Part shall as soon as reasonably practicable give notice in writing to the applicant stating whether in their opinion he is eligible for assistance in respect of the defective dwelling.
- (2) If they are of opinion that he is not so eligible, the notice shall state the reasons for their view.
- (3) If they are of opinion that he is so eligible, the notice shall inform him of his right to make such a claim as is mentioned in section 537(2) (claim that assistance by way of reinstatement grant is appropriate in his case).

### **537 Determination of form of assistance to which applicant is entitled.**

- (1) A local housing authority receiving an application for assistance under this Part shall, if the applicant is eligible for assistance, determine [F588 as soon as reasonably practicable] whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.
- (2) If the authority are satisfied, on a claim by the applicant to that effect, that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the applicant is entitled to assistance by way of repurchase.

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- (3) Subject to subsection (2), the applicant is entitled to assistance by way of reinstatement grant if the authority are satisfied that the conditions for such assistance set out in section 538 are met, and otherwise to assistance by way of repurchase.

**Textual Amendments**

**F588** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 166\(2\)](#)

**538 Conditions for assistance by way of reinstatement grant.**

- (1) The conditions for assistance by way of reinstatement grant are, subject to any order under subsection (2)—
  - (a) that the dwelling is a house (as defined in section 575);
  - (b) that if the work required to reinstate the dwelling (together with any other work which the local housing authority are satisfied the applicant proposes to carry out) were carried out—
    - (i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and
    - (ii) an individual acquiring the freehold of the dwelling with vacant possession would be likely to be able to arrange a mortgage on satisfactory terms with a lending institution;
  - (c) that giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling and, on the other hand, to the likely value of the freehold of the dwelling with vacant possession after the work required to reinstate it has been carried out; and
  - (d) ..... <sup>F589</sup>
- (2) The Secretary of State may by order amend the conditions set out in subsection (1) so as to modify or omit any of the conditions or to add or substitute for any of the conditions other conditions.
- (3) An order—
  - (a) may make different provision for different classes of case,
  - (b) shall be made by statutory instrument, and
  - (c) shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (4) An order does not affect an application for assistance made before the order comes into force.

**Textual Amendments**

**F589** [S. 538\(1\)\(d\)](#) repealed by [S.I. 1988/884](#), [art. 2](#)

**539 Meaning of “work required for reinstatement” and “associated arrangement”.**

- (1) For the purposes of this Part the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists

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of or includes the dwelling in order to deal satisfactorily with the qualifying defect, together with any further work—

- (a) required to be done, in order to deal satisfactorily with the qualifying defect, to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, or
- (b) reasonably required in connection with other work falling within this subsection.

[<sup>F590</sup>(1A) In any case where—

- (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
- (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.]

- (2) In this Part “associated arrangement” means an arrangement which is entered into in connection with the execution of the work required to reinstate a defective dwelling and is likely to contribute towards the dwelling being regarded as an acceptable security by a lending institution.

#### Textual Amendments

**F590** S. 539(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(3\)](#)

#### 540 Notice of determination.

- (1) Where an applicant is eligible for assistance, the authority to whom the application was made shall as soon as reasonably practicable give him notice in writing (a “notice of determination”) stating the form of assistance to which he is entitled.
- (2) If, on such a claim by the applicant as is mentioned in section 537(2) (claim that assistance by way of reinstatement grant is inappropriate in his case), the authority are not satisfied that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the notice shall state the reasons for their view.
- (3) A notice stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—
  - (a) the grounds for the authority’s determination;
  - (b) the work which, in their opinion, is required to reinstate the defective dwelling;
  - (c) the amount of expenditure which, in their opinion, may properly be incurred in executing the work;
  - (d) the amount of expenditure which, in their opinion, may properly be incurred in entering into an associated arrangement;

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- (e) the condition required by section 542 (execution of work to satisfaction of authority within specified period), including the period within which the work is to be carried out; and
  - (f) their estimate of the amount of grant payable in respect of the dwelling in pursuance of this Part.
- (4) A notice stating that the applicant is entitled to assistance by way of repurchase shall also state the grounds for the authority's determination and the effect of—
- (a) paragraphs 1 to 3 of Schedule 20 (request for notice of proposed terms of repurchase), and
  - (b) sections 554, 556 and 557(1) (provisions for grant of tenancy to former owner-occupier of repurchased dwelling).
- (5) References in the following provisions of this Part to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase are to a person who is eligible for assistance in respect of the dwelling and on whom a notice of determination has been served stating that he is entitled to that form of assistance.

*Assistance by way of reinstatement grant*

**541 Reinstatement grant.**

- (1) Where a person is entitled to assistance by way of reinstatement grant, the local housing authority shall pay reinstatement grant to him in respect of—
- (a) the qualifying work, and
  - (b) any associated arrangement,
- subject to and in accordance with the following provisions of this Part.
- (2) The “qualifying work” means the work stated in the notice of determination, or in a notice under section 544 (notice of change of work required), to be the work which in the opinion of the local housing authority is required to reinstate the dwelling.

**542 Conditions of payment of reinstatement grant.**

- (1) It is a condition of payment of reinstatement grant that the qualifying work is carried out—
- (a) to the satisfaction of the local housing authority, and
  - (b) within the period specified in the notice of determination. or that period as extended.
- (2) The period so specified shall be such reasonable period (of at least twelve months), beginning with service of the notice, as the authority may determine.
- (3) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person entitled to assistance, extend or further extend the period for carrying out the qualifying work (whether or not the period has expired).
- (4) Payment of reinstatement grant shall not be subject to any other condition, however expressed.

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### **543 Amount of reinstatement grant.**

- (1) The amount of reinstatement grant payable is the appropriate percentage of whichever is the least of—
  - (a) the amount stated in the notice of determination, or in a notice under section 544 (notice of change in work required or expenditure permitted), to be the amount of expenditure which, in the opinion of the local housing authority, may properly be incurred in executing the qualifying work and entering into any associated arrangement,
  - (b) the expenditure actually incurred in executing the qualifying work and entering into any associated arrangement, and
  - (c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this section.
- (2) The appropriate percentage is 90 per cent, or, in a case where the authority are satisfied that the person entitled to assistance would suffer financial hardship unless a higher percentage of the expenditure referred to in subsection (1) were paid to him, 100 per cent.
- (3) The Secretary of State may by order vary either or both of the percentages mentioned in subsection (2).
- (4) The maximum amount of expenditure permitted to be taken into account for the purposes of this section is the amount specified as the expenditure limit by order made by the Secretary of State, except in a case or description of case in which the Secretary of State, on the application of a local housing authority, approves a higher amount.
- (5) An order under subsection (4) may make different provision for different areas, different designated classes and different categories of dwelling.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

### **544 Changes in work or expenditure.**

Where the local housing authority are satisfied that—

- (a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice of determination or in a previous notice under this section, or
- (b) the amount of the expenditure which may properly be incurred in executing that work is greater than that so stated, or
- (c) there is an amount of expenditure which may properly be incurred in entering into an associated arrangement but no such amount is stated in the notice of determination or a previous notice under this section, or
- (d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

they shall by notice in writing served on the person entitled to assistance state their opinion as to that amount or, as the case may be, that work and that amount; and the amount of reinstatement grant shall be adjusted accordingly.

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**545 Payment of reinstatement grant.**

- (1) The local housing authority may pay reinstatement grant in respect of the qualifying work in a single sum on completion of the work or by instalments.
- (2) No instalments shall be paid if the instalment, together with any amount previously paid, would exceed the appropriate percentage of the cost of so much of the qualifying work as has been executed at that time.
- (3) The authority shall pay reinstatement grant in respect of an associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement falls to be made.

**546 Repayment of grant for breach of condition.**

- (1) Where an amount of reinstatement grant has been paid in one or more instalments and the qualifying work is not completed within the period for carrying out the work, the local housing authority may, if they think fit, require the person who was entitled to assistance to repay that amount to them forthwith.
- (2) The amount required to be repaid (or, if it was paid in more than one instalment, the amount of each instalment) shall carry interest, at such reasonable rate as the authority may determine, from the date on which it was paid until repayment.

*Assistance by way of repurchase*

**547 Repurchase.**

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

Part I—The agreement to repurchase.

Part II—Price payable and valuation.

Part III—Supplementary provisions.

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

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

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



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TABLE

<b>Public sector authority</b>	<b>Conditions</b>
1. A registered housing association (other than a co-operative housing association) or a predecessor housing association of that association.	None
2. A development corporation.	No interests have at any time been transferred from the corporation in pursuance of a scheme made or having effect as if made under section 42 of the <sup>M88</sup> New Towns Act 1981 (transfer of housing to district council).
3. The Development Board for Rural Wales.	None
Another local housing authority or a predecessor of that authority.	The local housing authority provide housing accommodation in the vicinity of the defective dwelling with which the dwelling may conveniently be managed.
5. Any other public sector authority prescribed by order of the Secretary of State, or a predecessor so prescribed.	Any conditions prescribed in the order.

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

**Marginal Citations**

**M88** 1981 c. 64.

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

- (1) This section applies where a person (“the owner”) is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a covenant relating to his interest in the dwelling whereby—
  - (a) before disposing of the interest he must offer to dispose of it to a public sector authority, or
  - (b) in the case of a leasehold interest, he may require a public sector authority who are his landlord to accept a surrender of the lease but is otherwise prohibited from disposing of it,
- (2) If the public sector authority are the local housing authority, the covenant shall be disregarded for the purposes of Schedule 20 (repurchase).
- (3) If the public sector authority are not the local housing authority, the provisions of this Part as to repurchase do not apply so long as there is such a covenant; but if—
  - (a) the owner disposes of his interest to the public sector authority in pursuance of the covenant or lease, and
  - (b) the interest acquired by that authority on the disposal subsists only in the land affected, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or part of it,

the owner is entitled to be paid by the local housing authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal.
- (4) For the purposes of this section—
  - (a) the “consideration for the disposal” means the amount before any reduction required by section 158(3) (reduction corresponding to amount of discount repayable or amount payable for outstanding share under shared ownership lease) or any provision to the like effect, and
  - (b) the “defect-free value” means the amount that would have been the consideration for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

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

- (1) Where a person (“the owner”) has disposed of an interest in a defective dwelling, otherwise than in pursuance of Schedule 20 (repurchase), to an authority possessing compulsory purchase powers and—
  - (a) immediately before the time of the disposal he was eligible for assistance under this Part in respect of the dwelling,
  - (b) the amount paid as consideration for the disposal did not include any amount attributable to his right to apply for such assistance, and
  - (c) on the disposal the authority acquired an interest in any of the affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or part of it,

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

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- (2) For the purposes of this section—
- (a) the “amount of compensation for the disposal” means the amount that would have been the proper amount of compensation for the disposal (having regard to any relevant determination of the Lands Tribunal) or, if greater, the amount paid as the consideration for the disposal, and
  - (b) the “defect-free value” means the amount that would have been the proper amount of compensation for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect;
- but excluding, in either case any amount payable for disturbance or for any other matter not directly based on the value of land.
- (3) For the purposes of this section, it shall be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so).
- (4) Where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development, it shall be assumed for the purposes of determining the defect-free value that it did not fall to be so assessed.
- (5) The amount payable by the local housing authority under this section shall be reduced by the amount of any payment made in respect of the defective dwelling under Schedule 23 (payments for well-maintained houses).
- (6) In this section “authority possessing compulsory purchase powers” has the same meaning as a in the <sup>M89</sup>Land Compensation Act 1961.

#### Marginal Citations

M89 1961 c. 33

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

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

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- (4) A person serving a notice on the district valuer in pursuance of subsection (3) shall serve notice in writing of that fact on the other party.
- (5) Before making a determination in pursuance of subsection (3), the district valuer shall consider any representation by the owner or the authority made to him within four weeks from the service of the notice under that subsection.

## 552 Reimbursement of expenses incidental to repurchase.

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

### *Effect of repurchase on occupier*

## 553 Effect of repurchase on certain existing tenancies.

- (1) Where an authority mentioned in section 80 (authorities satisfying the landlord condition for secure tenancy) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—
  - (a) the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - (b) the interest of the person entitled to assistance by way of repurchase is, immediately before the completion of the authority's acquisition, subject to a tenancy of the dwelling-house,
 the tenancy shall not, on or after the acquisition, become a secure tenancy unless the conditions specified in subsection (2) are met.
- (2) The conditions are—
  - (a) that the tenancy was a protected tenancy [<sup>F591</sup>or an assured tenancy] throughout the period beginning with the making of an application for assistance under this Part in respect of the defective dwelling and ending immediately before the authority's acquisition; and
  - (b) no notice was given in respect of the tenancy in accordance with any of Cases 11 to 18 and 20 in Schedule 15 to the <sup>M90</sup>Rent Act 1977 (notice that possession might be recovered under that Case) or under section 52(1)(b) of the <sup>M91</sup>Housing Act 1980 (notice that tenancy is to be a protected shorthold tenancy) [<sup>F592</sup>or in accordance with any of Grounds 1, 3, 4 and 5 in Schedule 2 to the Housing Act 1988 (notice that possession might be recovered under that ground) or under section 20(1)(c) of that Act (notice served in respect of assured shorthold tenancies); and].

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- [<sup>F593</sup>(c) the tenancy is not an assured periodic tenancy which, by virtue of section 39(7) of the Housing Act 1988 (successors under the Rent Act 1977), is an assured shorthold tenancy]

#### Textual Amendments

**F591** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 60(a)**

**F592** Words added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 60(b)**

**F593** S. 553(2)(c) added by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 60(c)**

#### Marginal Citations

**M90** 1977 c. 42.

**M91** 1980 c. 51.

### 554 Grant of tenancy to former owner-occupier.

- (1) Where an authority acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), or in the circumstances described in section 549(3) (exercise of right of pre-emption &c.), and—
- the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - an individual is an occupier of the dwelling-house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or the persons so entitled are in relation to the interest concerned his trustees,

the authority shall, in accordance with this section, either grant or arrange for him to be granted a tenancy (of that dwelling-house or another: see section 556) on the completion of their acquisition of the interest concerned.

- (2) If the authority are among those mentioned in section 80(1) (public sector authorities capable of granting secure tenancies) their obligation is to grant a secure tenancy.

[<sup>F594</sup>(2A) If the authority is a registered housing association, other than a housing co-operative, within the meaning of section 27B, their obligation is to grant a secure tenancy if the individual to whom a tenancy is to be granted—

- is a person who, immediately before he acquired his interest in the dwelling-house, was a secure tenant of it; or
- is the spouse or former spouse or widow or widower of a person falling within paragraph (a); or
- is a member of the family, within the meaning of section 186, of a person falling within paragraph (a) who has died, and was residing with that person in the dwelling-house at the time of and for the period of twelve months before his death.]

- (3) In any other case their obligation is to grant or arrange for the grant of either—
- a secure tenancy, or

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- (b) a protected tenancy other than one under which the landlord might recover possession under one of the cases in Part II of Schedule 15 to the <sup>M92</sup>Rent Act 1977 (cases in which the court must order possession) [<sup>F595</sup>or
  - (c) an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession on any of Grounds 1 to 5 in Schedule 2 to that Act.]
- (4) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same dwelling-house, the authority shall grant the tenancy, or arrange for it to be granted, to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

#### Textual Amendments

**F594** S. 554(2A) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 61\(1\)](#)

**F595** S. 554(3)(c) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 61\(2\)](#)

#### Marginal Citations

**M92** 1977 c. 42.

### 555 Grant of tenancy to former statutory tenant.

- (1) Where an authority mentioned in section 80(1) (public sector authorities capable of granting secure tenancies) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—
- (a) the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling, and
  - (b) an individual is an occupier of a dwelling-house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - (c) he is a statutory tenant of the dwelling-house at the end of that period, and
  - (d) no notice was given in respect of the original tenancy in accordance with any of Cases 11 to 18 and 20 in Schedule 15 to the Rent Act 1977 (notice that possession might be recovered under that Case) or under section 52(1)(b) of the <sup>M93</sup>Housing Act 1980 (notice that tenancy is to be a protected shorthold tenancy), and
  - (e) the interest of the person entitled to assistance would, if the statutory tenancy were a contractual tenancy, be subject to the tenancy at the end of the period mentioned in paragraph (b),

the authority shall grant him a secure tenancy (of that dwelling-house or another: see section 556) on the completion of their acquisition of the interest concerned.

- (2) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same dwelling-house, the authority shall grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

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- (3) If at any time after the service of a notice of determination it appears to the purchasing authority that a person may be entitled to request them to grant him a secure tenancy under this section, they shall forthwith give him notice in writing of that fact.

**Marginal Citations**

**M93** 1980 c. 51.

**556 Alternative accommodation under s. 554 or 555,**

- (1) The dwelling-house to be let under the tenancy granted to a person—
- (a) under section 554 or 555 (grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house acquired by authority), or
  - (b) under arrangements made for the purposes of section 554,

shall be the dwelling-house of which he is the occupier immediately before the completion of the authority's acquisition (the "current dwelling-house"), except in the following Cases.

Case 1

By reason of the condition of any building of which the current dwelling-house consists or of which it forms part, the dwelling-house may not safely be occupied for residential purposes.

Case 2

The authority intend, within a reasonable time of the completion of their acquisition of the interest concerned—

- (a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or
- (b) to carry out work on any building or land in which the interest concerned subsists,

and cannot reasonably do so if the current dwelling-house remains in residential occupation.

- (2) In those Cases the dwelling-house to be let shall be another dwelling-house which, so far as is reasonably practicable in the case of that authority, affords accommodation which is—
- (a) similar as regards extent and character to the accommodation afforded by the current dwelling-house,
  - (b) reasonably suitable to the means of the prospective tenant and his family, and
  - (c) reasonably suitable to the needs of the prospective tenant and his family as regards proximity to place of work and place of education.

**557 Request for tenancy under s. 554 or 555.**

- (1) An authority are not required to grant, or arrange for the grant of, a tenancy to a person under section 554 or 555 unless he requests them to do so in writing before—
- (a) in the case of an acquisition under Schedule 20 (repurchase,), the service on the person entitled to assistance of a copy of the agreement drawn up under paragraph 5 of that Schedule, or

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- (b) in the case of an acquisition in the circumstances described in section 549(3) (acquisition in pursuance of right of pre-emption, &c.), the time of the disposal.
- (2) An authority receiving a request under subsection (1) shall, as soon as reasonably practicable, give notice in writing to the person making the request stating whether in their opinion either of the Cases in section 556(1) applies (cases in which tenancy may be of a dwelling-house other than the current dwelling-house).
- (3) If their opinion is that either Case does apply, the notice shall also state which of the Cases is applicable and the effect of section 556.

### **558 Interpretation of ss. 553 to 557.**

- (1) In sections 553 to 557 (effect of repurchase on occupier)—
  - (a) “dwelling-house” has the same meaning as in Part IV (secure tenancies);
  - (b) “occupier”, in relation to a dwelling-house, means a person who occupies the dwelling-house as his only or principal home or (in the case of a statutory tenant) as his residence;
  - (c) references to the grant of a secure tenancy are to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the dwelling-house as his only or principal home

#### *Local schemes*

### **559 Designation of defective dwellings under local schemes.**

- (1) A local housing authority may by resolution designate as a class buildings in their district each of which consists of or includes one or more dwellings if it appears to them that—
  - (a) buildings in the proposed class are defective by reason of their design or construction, and
  - (b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.
- (2) Subsection (1) does not apply to a building in a class designated under section 528 (designation by Secretary of State); but a building does not cease to be included in a class designated under this section by virtue of its inclusion in a class designated under that section.
- (3) A dwelling which is, or is included in, a building in a class so designated is referred to in this Part as a “defective dwelling”; and in this Part, in relation to such a dwelling—
  - (a) “The qualifying defect” means what, in the opinion of the authority, is wrong with the buildings in that class, and
  - (b) “the cut-off date” means the date by which, in the opinion of the authority, the circumstances mentioned in subsection (1)(a) became generally known.
- (4) A designation shall describe the qualifying defect and specify—
  - (a) the cut-off date,
  - (b) the date (being a date falling on or after the cut-off date) on which the designation is to come into operation, and



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- (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.
- (5) A designation may not describe a designated class by reference to the area (other than the authority's district) in which the buildings concerned are situated; but a designated class may be so described that within the authority's district there is only one building in the class.
- (6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the local housing authority concerned.

#### **560 Variation or revocation of designation under local scheme.**

- (1) The local housing authority may by resolution—
  - (a) vary a designation under section 559, but not so as to vary the cut-off date, or
  - (b) revoke such a designation.
- (2) The authority may by a variation of the designation extend the period referred to in section 559(4)(c) (period within which assistance must be applied for) whether or not it has expired.
- (3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and application for assistance under this Part has been made.

#### **561 Secretary of State's control over designation, variation or revocation.**

- (1) Where a local housing authority have passed a resolution under—
  - (a) section 559 (designation under local scheme) or,
  - (b) section 560 (variation or revocation of designation under local scheme),they shall give written notice to the Secretary of State of the resolution before the expiry of the period of 28 days beginning with the date on which it is passed.
- (2) The designation, variation or revocation shall not come into operation before [<sup>F596</sup>the cut-off date or if it is later] the expiry of the period of two months [<sup>F597</sup>or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A) below] beginning with the receipt by the Secretary of State of the notice under subsection (1).
- [<sup>F598</sup>(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2) above, the Secretary of State is satisfied that he does not have reasonably sufficient information to enable him to come to a decision with respect to the resolution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction.]
- (3) If [<sup>F599</sup>before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above] the Secretary of State serves notice in writing to that effect on the authority, the designation, revocation or variation shall not come into operation.

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### Textual Amendments

**F596** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(4\)\(a\)](#)

**F597** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(4\)](#)

**F598** [S. 561\(2A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(4\)\(b\)\(5\)](#)

**F599** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(4\)\(c\)](#)

### Miscellaneous

#### **562 Duty of local housing authority to publicise availability of assistance.**

- (1) A local housing authority shall, within the period of three months beginning with the coming into operation of—
  - (a) a designation under section 528 (designation of defective dwellings by Secretary of State) or section 559 (designation of defective dwellings under local scheme), or,
  - (b) a variation of such a designation,
 publish in a newspaper circulating in their district notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of such of the dwellings concerned as are situated within their district.
- (2) No such notice need be published by a local housing authority who are of opinion—
  - (a) that none of the dwellings concerned are situated in their district, or
  - (b) that no-one is likely to be eligible for assistance in respect of the dwellings concerned which are situated in their district.
- (3) If at any time it becomes apparent to a local housing authority that a person is likely to be eligible for assistance in respect of a defective dwelling within their district, they shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

#### **563 Duties of public sector authority disposing of defective dwelling.**

- (1) A public sector authority shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by the authority, give him notice in writing before the time of the disposal—
  - (a) specifying the qualifying defect, and
  - (b) stating that he will not be eligible for assistance under this part in respect of the dwelling.
- (2) A public sector authority shall, before they convey a relevant interest in a defective dwelling in pursuance of a contract to a person on whom a notice under subsection (1) has not been served, give him notice in writing—
  - (a) specifying the qualifying defect,
  - (b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and
  - (c) stating the effect of subsection (3)
- (3) A person on whom a notice under subsection (2) is served—

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- (a) is not obliged to complete the conveyance before the expiry of the period of six months beginning with the service of that notice on him, and
- (b) may within that period withdraw from the transaction by notice in writing to the authority to that effect;

and upon such a notice of withdrawal being given to the authority the parties to the contract are discharged from any obligations in connection with it and any deposit paid shall be repaid.

- (4) Where a public sector authority are required to serve a notice under section 124 (landlord's response to notice claiming to exercise right to buy) in respect of a defective dwelling, the notice under subsection (1) shall be served with that notice.
- (5) A notice under subsection (1) or (2) shall, (except in the case of a notice under subsection (1) which is served in accordance with subsection (4)), be served at the earliest date at which it is reasonably practicable to do so.

#### **564 Reinstatement of defective dwelling by local housing authority.**

- (1) Where a relevant interest in a defective dwelling has been disposed of by a public sector authority, the local housing authority may, before the end of the period within which a person may seek assistance under this Part in respect of the dwelling, enter into an agreement with—
  - (a) any person holding an interest in the dwelling, or
  - (b) any person who is a statutory tenant of it,to execute at his expense any of the work required to reinstate the dwelling.
- (2) For the purposes of this section a disposal by or under an enactment of an interest in a dwelling held by a public sector authority shall be treated as a disposal of the interest by the authority.

#### **565 Death of person eligible for assistance, &c.**

- (1) Where a person who is eligible for assistance in respect of a defective dwelling—
  - (a) dies, or
  - (b) disposes of his interest in the dwelling (otherwise than on a disposal for value) to such a person as is mentioned in section 527(a) (persons qualifying for assistance: individuals, trustees for individuals and personal representatives),this Part applies as if anything done (or treated by virtue of this subsection as done) by or in relation to the person so eligible had been done by or in relation to his personal representatives or, as the case may be, the person acquiring his interest.
- (2) In sections 549 to 551 (subsidiary forms of financial assistance) references to the owner of an interest in a defective dwelling include his personal representatives.

#### **566 Dwellings included in more than one designation.**

The provisions of Schedule 21 have effect with respect to dwellings included in more than one designation.

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**567 Modifications of this Part in relation to shared ownership leases.**

- [<sup>F600</sup>(1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—
  - (a) a shared ownership lease, or
  - (b) the freehold acquired under the terms of a shared ownership lease,
 the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.
  
- (2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him.]
  
- (4) In this section “shared ownership lease” means—
  - (a) a shared ownership lease granted in pursuance of Part V (the right to buy),
  - (b) a lease of a dwelling-house granted otherwise than in pursuance of that Part which contains provision to the like effect as that required by paragraphs 1 and 2 of Schedule 8 (terms of shared ownership lease: right to acquired additional shares and to acquire freehold),
  - (c) .....<sup>F601</sup> or
  - (d) a lease determined, or of a class [<sup>F602</sup>or description] determined, by the Secretary of State to be a shared ownership lease.
  
- (5) The fact that a lease becomes a shared ownership lease by virtue of . . .<sup>F603</sup> a determination under subsection (4)(d) does not affect the operation of the provisions of this Part in relation to a case where an application for assistance under this Part has previously been made.
  
- (6) .....<sup>F604</sup>

**Textual Amendments**

**F600** S. 567(1)(2) substituted for s.567(1)–(3) by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(6\)](#)

**F601** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

**F602** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(7\)](#)

**F603** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

**F604** S. 567(6) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(4\), Sch. 12 Pt. II](#)

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

**C144** S. 567(4) amended by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(7\)](#)

**568 Extension of assistance to mortgagees.**

- (1) The Secretary of State may by regulations make provision for conferring rights and obligations on a mortgagee of a defective dwelling where—
  - (a) a power of sale (whether conferred by section 101 of the <sup>M94</sup>Law of Property Act 1925 or otherwise) is exercisable by the mortgagee, and
  - (b) the mortgagor is eligible for assistance in respect of the defective dwelling.

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- (2) The rights that may be so conferred are—
- (a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling,
  - (b) the right to require the purchasing authority to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale, and
  - (c) where the mortgagee is the purchasing authority, the right by deed to vest the dwelling in themselves;
- and those rights may be conferred in place of rights conferred by this Part on any other person.
- (3) The regulations may provide that where the conditions in subsection (1)(a) and (b) are or have been satisfied, this Part, the power of sale in question and any enactment relating to the power of sale shall have effect subject to such modifications as may be specified in the regulations.
- (4) Where a defective dwelling is vested in a mortgagee in pursuance of—
- (a) regulations under this section, or
  - (b) section 452 and Schedule 17 (vesting of dwelling-house in authority entitled to exercise power of sale),
- the regulations may provide for the payment in respect of the vesting of an amount calculated on the assumption that none of the defective dwellings to which the designation in question relates is affected by the qualifying defect; and those enactments shall have effect subject to any such provisions.
- (5) Regulations under this section—
- (a) may make different provision for different cases and may make incidental and consequential provision; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “mortgagee” and “mortgagor” have the same meaning as in the <sup>M95</sup>Law of Property Act 1925.

**Marginal Citations**

**M94** 1925 c. 20.

**M95** 1925 c. 20.

*Contributions by Secretary of State*

**569 Contributions by Secretary of State.**

- (1) The Secretary of State may, if he thinks fit in any case, contribute towards the expense incurred by a local housing authority—
- (a) in giving assistance by way of reinstatement grant,
  - (b) in giving assistance by way of repurchase of a dwelling which is a defective dwelling by virtue of a designation under section 528 (designation by Secretary of State), or

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- (c) in making payments under section 549 (making up of consideration on disposal in pursuance of right of pre-emption, &c.) or section 550 (making up of compulsory purchase compensation).
- (2) The contributions shall be [<sup>F605</sup>equal to the relevant percentage of the amount of the expense incurred]
- (3) The relevant percentage is—
- (a) 90 per cent. in the case of reinstatement grant.
  - (b) 75 per cent. in the case of repurchase or a payment under section 549 or 550 where there has at any time been a disposal of a relevant interest in the defective dwelling by the local housing authority or a predecessor of that authority, and
  - (c) 100 per cent. in the case of repurchase or a payment under those sections not within paragraph (b);
- or such other percentage as, in any of those cases, may be provided by order under section 570.
- (4) The amount of expense incurred is—
- (a) in the case of reinstatement grant, the amount of the grant,
  - (b) in the case of repurchase, the price paid for the acquisition, together with any amount reimbursed under section 552 (incidental expenses), less the value of the interest at the relevant time determined in accordance with paragraph 8 of Schedule 20 (value for purposes of repurchase) but without the assumption required by paragraph 8(1)(a) (assumption that dwelling is defect free),
  - (c) in the case of a payment under section 549 or 550, the amount of the payment.
- (5) ..... <sup>F606</sup>
- (6) Payment of contributions under this section is subject to the making of a claim in such form, and containing such particulars, as the Secretary of State may determine; and the contributions are payable at such times, in such manner and subject to such conditions, as to records, certificates, audit or otherwise, as the Secretary of State may, with the agreement of the Treasury, determine.

#### Textual Amendments

**F605** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 157\(8\)\(10\)](#)

**F606** [S. 569\(5\)](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), ss. 157\(8\)\(ii\)\(10\), 194\(4\), Sch. 12 Pt. II](#)

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

**C145** [S. 569](#) modified by [S.I. 1986/797, reg. 23](#)

**C146** [S. 569\(3\)\(4\)](#) applied (retrospectively to 1.1.1993) by [1993 c. 28, ss. 139\(4\)\(5\)\(7\), 188\(2\)](#).

### 570 Power to vary relevant percentage.

- (1) The Secretary of State may by order made with the consent of the Treasury vary all or any of the percentages specified in section 569(3) (relevant percentages for purposes of contribution to expenditure of local housing authority) in respect of assistance or payments, or a class of assistance or payments, specified in the order.

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- (2) An order—
  - (a) may make different provision for assistance given or payments made in respect of defective dwellings in different areas or under different provisions or for different purposes of the same provision;
  - (b) shall be made by statutory instrument; and
  - (c) shall not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.
- (3) An order applies to assistance given or payments made in pursuance of applications made after such date as may be specified in the order, and the specified date shall not be earlier than the date of the laying of the draft.

### *Supplementary provisions*

#### **571 Service of notices.**

- (1) A notice or other document under this Part may be given to or served on a person, and an application or written request under this Part may be made to a person—
  - (a) by delivering it to him or leaving it at his proper address, or
  - (b) by sending it to him by post,and also, where the person concerned is a body corporate, by giving or making it to or serving it on the secretary of that body.
- (2) For the purposes of this section, and of section 7 of the <sup>M96</sup>Interpretation Act 1978 as it applies for the purposes of this section, the proper address of a person is—
  - (a) in the case of a body corporate or its secretary, the address of the principal office of the body,
  - (b) in any other case, his last known address,and also, where an additional address for service has been specified by that person in a notice under section 548(2) (notice of intention to assume responsibility for repurchase), that address.

#### **Marginal Citations**

**M96** 1978 c. 30.

#### **572 Jurisdiction of county court.**

- (1) The county court has jurisdiction—
  - (a) to determine any question arising under this Part notwithstanding that a declaration is the only relief sought, and
  - (b) to entertain any proceedings brought in connection with the performance or discharge of obligations arising under this Part, including proceedings for the recovery of damages in the event of the obligations not being performed.
- (2) Subsection (1) has effect subject to—
  - sections 528(6) and 559(6) (questions of designation to be decided by designating authority), and

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section 551(3) and paragraph 9 of Schedule 20 (questions of valuation to be determined by district valuer).

- (3) Where an authority fail to extend or further extend a period when required to do so by—
- (a) section 542(3) (reinstatement grant: period within which work is to be completed), or
  - (b) paragraph 2(2) or 6(2) of Schedule 20 (repurchase: period for service of request or notice by person entitled to assistance),
- the county court may by order extend or further extend that period until such date as may be specified in the order.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section.
- (5) The rules and directions may provide for the exercise by a registrar of the county court of any jurisdiction exercisable under this section.
- (6) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **573 Meaning of “public sector authority”.**

- (1) In this Part “public sector authority” means—
- a local authority (or a predecessor of a local authority),
  - a joint board of which every constituent member is, or is appointed by, a local authority (or a predecessor of a local authority),
  - the Peak Park Joint Planning Board,
  - the Lake District Special Planning Board,
  - [<sup>F607</sup>the National Rivers Authority]
  - the [<sup>F608</sup>Corporation],
  - a registered housing association other than a co-operative housing association (or a predecessor housing association of such an association),
  - a new town corporation,
  - the Development Board for Rural Wales,
  - the [<sup>F609</sup>British Coal Corporation], or
  - the United Kingdom Atomic Energy Authority,
- or a body corporate or housing association specified by order of the Secretary of State in accordance with the following provisions.
- (2) The Secretary of State may provide that a body corporate shall be treated as a public sector authority if he is satisfied—
- (a) that the affairs of the body are managed by its members, and
  - (b) that its members hold office by virtue of appointment (to that or another office) by a Minister of the Crown under an enactment,
- or if he is satisfied that it is a subsidiary of such a body.
- (3) The Secretary of State may provide that a housing association shall be treated as a public sector authority if he is satisfied that the objects or powers of the association include the provision of housing accommodation for individuals employed at any time by a public sector authority or dependants of such individuals.



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- (4) Where the Secretary of State is satisfied that a body or association met the requirements of subsection (2) or (3) during any period, he may, whether or not he makes an order in respect of the body or association under that subsection, provide that it shall be treated as having been a public sector authority during that period.
- (5) If the Secretary of State is satisfied that a body or association specified in an order under subsection (2) or (3) has ceased to meet the requirements of that subsection on any date, he may by order provide that it shall be treated as having ceased to be a public sector authority on that date.
- (6) An order under this section shall be made by statutory instrument.

#### Textual Amendments

**F607** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(1), 193(1), Sch. 25 para. 74(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

**F608** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

**F609** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), **Sch. 1 para. 47**

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

**C147** [S. 573\(1\)](#) explained by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 5(1), **Sch. 3 para. 5(3)**

#### **574 Disposal of certain Crown interests in land treated as disposal by public sector authority.**

References in this Part to a disposal of an interest in a dwelling by a public sector authority include a disposal of—

- (a) an interest belonging to Her Majesty in right of the Crown,
- (b) an interest belonging to, or held in trust for Her Majesty for the purposes of, a government department or Minister of the Crown, or
- (c) an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.

#### **575 Meaning of “dwelling” and “house”.**

- (1) In this Part “dwelling” means any house, flat or other unit designed or adapted for living in.
- (2) For the purposes of this Part a building so designed or adapted is a “house” if it is a structure reasonably so called; so that where a building is divided into units so designed or adapted—
  - (a) if it is so divided horizontally, or a material part of a unit lies above or below another unit, the units are not houses (though the building as a whole may be), and
  - (b) if it is so divided vertically, the units may be houses.
- (3) Where a house which is divided into flats or other units is a defective dwelling in respect of which a person is eligible for assistance, the fact that it is so divided shall be disregarded for the purposes of section 538(1)(a) (first condition for assistance by way of reinstatement: that the dwelling is a house).

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## 576 Meaning of “lending institution”.

In this Part “lending institution” means—  
 a building society,  
 a bank,  
 a trustee savings bank, or  
 an insurance company.

## 577 Index of defined expressions: Part XVI.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expressions used in the same section or paragraph:—

the agreement (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
appropriate percentage (in relation to reinstatement grant)	section 543(2)
associated arrangement	section 539(2)
[ <sup>F610</sup> assured agricultural occupancy]	[ <sup>F610</sup> section 622]
[ <sup>F610</sup> assured tenancy]	[ <sup>F610</sup> section 622]
the authority (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
bank	section 622
building society	section 622
charge (in Part III of Schedule 20)	paragraph 11(2)(a) of Schedule 20
the conveyance (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
co-operative housing association	section 5(2)
[ <sup>F611</sup> the Corporation]	[ <sup>F611</sup> section 6A]
cut-off date	sections 528(2)(b) and 559(3)(b)
defective dwelling	sections 528(2) and 559(3)
development corporation	section 4(c)
disposal	section 532(1)
disposal for value	section 532(3)
district (of a local housing authority)	section 2(1)
district valuer	section 622
dwelling	section 575(1)
dwelling-house (in sections 553 to 557)	section 558(a)
eligible for assistance	sections 527 and 533
house	section 575(2)
housing association	section 5(1)

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insurance company	section 622
the interest acquired (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
interest in a dwelling	section 530(4)
interest to be acquired (in relation to repurchase)	paragraph 1 of Schedule 20
lending institution	section 576
local authority	section 4(e)
local housing authority	section 1, 2(2)
new town corporation	section 4(b)
notice of determination	section 540(1)
occupier (in sections 553 to 557)	section 558(b)
person entitled to assistance (by way of reinstatement grant or repurchase)	section 540(5)
previous disposal	section 532(4)
protected tenancy	section 622
public sector authority	section 573 (and see section 574)
the purchase price (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20
purchasing authority	section 548(3)
qualifying defect	sections 528(2)(a) and 559(3)(a)
qualifying work	section 541(2)
registered (in relation to a housing association)	section 5(4)
reinstatement grant	section 541(1)
relevant charge (in Part III of Schedule 20)	paragraph 7(2) of Schedule 20
relevant interest	section 530(1)
the relevant time (in relation to valuation for repurchase)	paragraph 7(2) of Schedule 20
repurchase	section 547
secure tenancy	section 79 (and see section 558(c))
statutory tenancy and statutory tenant	section 622
subsidiary	section 622
time of disposal	section 532(2)
trustee savings bank	section 622
the vendor (in Part III of Schedule 20)	paragraph 11(1) of Schedule 20

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work required to reinstate a defective dwelling      section 539(1)

#### Textual Amendments

**F610** Entries inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 62**

**F611** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 113**

## PART XVII

### COMPULSORY PURCHASE AND LAND COMPENSATION

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

**C148** [Pt. XVII](#) (ss. 578-603): power to apply certain functions (with modifications) conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **65(6)**

**C149** [Pt. XVII](#) (ss. 578-603) applied (1.4.1990) by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), **ss. 100(2)**, 195(2); S.I. 1990/431, **art. 4** (subject to [Sch. 1](#))

#### *Introductory*

#### **578 General enactments relating to compulsory purchase, &c., apply subject to this Part.**

The <sup>M97</sup>Acquisition of Land Act 1981, the <sup>M98</sup>Compulsory Purchase Act 1965 and the <sup>M99</sup>Land Compensation Act 1961 apply to the compulsory purchase of land under this Act subject to the following provisions of this Part.

#### Marginal Citations

**M97** 1981 c. 67.

**M98** 1965 c. 56.

**M99** 1961 c. 33.

#### **[<sup>F612</sup>578A] Modification of compulsory purchase order in case of acquisition of land for clearance.**

- (1) Subsection (2) applies where the local housing authority make a compulsory purchase order, within the meaning of the Acquisition of Land Act 1981, in respect of land they have determined to purchase under section 290 (acquisition of land comprised, surrounded by or adjoining a clearance area).
- (2) Where this subsection applies, the Secretary of State may, in accordance with section 13 of the Acquisition of Land Act 1981 (confirmation of order), confirm the order with modifications notwithstanding that the effect of the modifications made by him in excluding any land or buildings from the clearance area concerned is to sever the area into two or more separate and distinct areas; and, in such a case, the severance

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shall not prevent those areas from continuing to be treated as one clearance area for the purposes of the provisions of Part IX.]

**Textual Amendments**

**F612** S. 578A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para 72](#)

**579** ..... **F613**

**Textual Amendments**

**F613** Ss. 579–581 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1), 194(4), [Sch. 9 Pt. IV para. 73](#), [Sch. 12 Pt. II](#)

*Compulsory purchase*

**580**— ..... **F614**  
**581.**

**Textual Amendments**

**F614** Ss. 579–581 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1), 194(4), [Sch. 9 Pt. IV para. 73](#), [Sch. 12 Pt. II](#)

**582** **Restriction on recovery of possession after making of compulsory purchase order.**

- (1) This section applies where a local housing authority have made a compulsory purchase order authorising—
  - (a) the acquisition of a house in multiple occupation under—  
section 17 (provision of housing),  
..... **F615**  
section 300 (purchase of condemned house for temporary housing use), or
  - (b) the acquisition of land under [<sup>F616</sup>section 93(2) of the Local Government and Housing Act 1989 (land in renewal area)] on which there are premises consisting of or including housing accommodation),and within the period specified in subsection (2) proceedings for possession of premises forming part of the house or land in question are brought in the county court against a person who was the lessee of the premises when the order was made, or became the lessee after the order was made, but is no longer the lessee.
- (2) The period referred to in subsection (1) is the period beginning with the making of the compulsory purchase order and ending with—
  - (a) the third anniversary of the date on which the order became operative, or
  - (b) any earlier date on which the Secretary of State notifies the authority that he declines to confirm the order or the order is quashed by a court.

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- (3) Where this section applies the court may suspend the execution of any order for possession for such period, and subject to such conditions, as it thinks fit.
- (4) The period of suspension ordered by the court shall not extend beyond the end of the period of three years beginning with the date on which the court makes its order or, if earlier, the date on which the compulsory purchase order became operative.
- (5) The court may from time to time vary the period of suspension (but not so as to enlarge it beyond the end of the period of three years referred to in subsection (4)), or terminate it, or vary the terms of the order in other respects.
- (6) If at any time—
  - (a) the Secretary of State notifies the authority that he declines to confirm the compulsory purchase order, or the order is quashed by a court, or
  - (b) the authority decide, whether before or after the order has been submitted to the Secretary of State for confirmation, not to proceed with it,

the authority shall notify the person entitled to the benefit of the order for possession and that person shall be entitled, on applying to the court, to obtain an order terminating the period of suspension, but subject to the exercise of the same discretion in fixing the date on which possession is to be given as the court might exercise if it were then making an order for possession for the first time.
- (7) This section does not apply—
  - (a) where the person entitled to possession of the premises is the local housing authority;
  - <sup>F617</sup>(b) .....
- (8) In this section “house in multiple occupation” has the same meaning as in Part XI.

**Textual Amendments**

**F615** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(d), 194(4), [Sch. 9 Pt. IV para. 74](#), [Sch. 12 Pt. II](#)

**F616** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 85](#)

**F617** [S. 582\(7\)\(b\)](#) omitted (1.7.1991) by virtue of [S.I. 1991/724](#), art. 2(8), [Schedule Part I](#) (with art. 12)

**583 Continuance of tenancies of houses compulsorily acquired and to be used for housing purposes.**

- (1) Where a local housing authority—
  - (a) are authorised to purchase compulsorily a house which is to be used for housing purposes, and
  - (b) have acquired the right to enter on and take possession of the house by virtue of having served a notice under section 11 of the <sup>M100</sup>Compulsory Purchase Act 1965,

they may, instead of exercising that right by taking actual possession of the house, proceed by serving notice on any person then in occupation of the house, or part of it, authorising him to continue in occupation upon terms specified in the notice or on such other terms as may be agreed.
- (2) Where the authority proceed in accordance with subsection(1)—

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- (a) the like consequences follow with respect to the determination of the rights and liabilities of any person arising out of any interest of his in the house, or a part of it, and
  - (b) the authority may deal with the premises in all respects,as if they had taken actual possession on the date of the notice.
- (3) A person who by virtue of this section ceases to be entitled to receive rent in respect of the premises shall be deemed for the purposes of section 20 of the <sup>M101</sup>Compulsory Purchase Act 1965 (compensation of tenants, &c.) to have been required to give up possession of the premises.
- (4) In this section “house” includes—
  - (a) any part of a building which is occupied as a separate dwelling, and
  - (b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.

#### Marginal Citations

M100 1965 c. 56.

M101 1965 c. 56.

### 584 Power to enter and determine short tenancies of land acquired or appropriated.

- (1) This section applies where a local housing authority have agreed to purchase or have determined to appropriate land for the purposes of—
  - Part II (provision of housing),
  - Part VIII (area improvement), . . . <sup>F618</sup>
  - the provisions of Part IX relating to clearance areas [<sup>F619</sup>or
  - Part VII of the Local Government and Housing Act 1989 (renewal areas)],subject to the interest of the person in possession of the land.
- (2) If that person’s interest is not greater than that of a tenant for a year, or from year to year, the authority may, after giving him not less than 14 days’ notice, enter on and take possession of the land, or such part of the land as is specified in the notice, without previous consent.
- (3) The power conferred by subsection (2) may be exercised at any time after the making of the agreement or determination, except where the appropriation requires Ministerial consent in which case the power is not exercisable until that consent has been given.
- (4) The exercise of the local housing authority’s power under subsection (2) is subject to the payment to the person in possession of the like compensation, and interest on the compensation awarded, as would be payable if—
  - (a) the authority had been authorised to acquire the land compulsorily, and
  - (b) that person had been required in pursuance of their powers in that behalf to quit possession before the expiry of his term or interest in the land;but without any necessity for compliance with section 11 of the Compulsory Purchase Act 1965 (which prohibits entry on the land acquired before the compensation has been ascertained and paid or secured).

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#### Textual Amendments

**F618** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 86](#)

**F619** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 86](#)

#### [<sup>F620</sup>**584A** Compensation payable in case of closing and demolition orders.]

- (1) Subject to subsection (3), where a closing order under section 264 or a demolition order under section 265 is made in respect of any premises, the local housing authority shall pay to every owner of the premises an amount determined in accordance with subsection (2).
- (2) The amount referred to in subsection (1) is the diminution in the compulsory purchase value of the owner's interest in the premises as a result of the making of the closing order or, as the case may be, the demolition order; and that amount—
  - (a) shall be determined as at the date of the making of the order in question; and
  - (b) shall be determined (in default of agreement) as if it were compensation payable in respect of the compulsory purchase of the interest in question and shall be dealt with accordingly.
- (3) In any case where—
  - (a) a closing order has been made in respect of any premises, and
  - (b) by virtue of section 279 (closing orders: substitution of demolition order), the closing order is revoked and a demolition order is made in its place,
 the amount payable to the owner under subsection (1) in connection with the demolition order shall be reduced by the amount (if any) paid to the owner or a previous owner under that subsection in connection with the closing order.
- (4) For the purposes of this section—
 

“compulsory purchase value”, in relation to an owner's interest in premises, means the compensation which would be payable in respect of the compulsory purchase of that interest if it fell to be assessed in accordance with the Land Compensation Act 1961; and

“premises” has the meaning assigned by section 322 (minor definitions for the purposes of Part IX).]

#### Textual Amendments

**F620** ~~Ss. 584A, 584B~~ inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para. 75](#)

#### [<sup>F621</sup>**584B** Repayment on revocation of demolition or closing order.]

- (1) Where a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a demolition or closing order and—
  - (a) the demolition order is revoked under section 274 (revocation of demolition order to permit reconstruction of premises), or



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(b) the closing order is determined under section 278 (determination of closing order on premises being rendered fit),

then, if at that time the person to whom the payment was made has the same interest in the premises as he had at the time the payment was made, he shall on demand repay to the authority the amount of the payment.

(2) In any case where—

(a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a closing order, and

(b) by virtue of section 278, the order is determined as respects part of the premises, and

(c) the person to whom the payment was made (in this section referred to as “the recipient”) had, at the time the payment was made, an owner’s interest in the part of the premises concerned (whether or not he had such an interest in the rest of the premises),

then, if at the time of the determination of the closing order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount determined in accordance with subsections (3), (4) and (5).

(3) The amount referred to in subsection (2) is whichever is the less of—

(a) the amount by which the value of the interest of the recipient in the premises increases as a result of the determination of the closing order; and

(b) the amount paid to the recipient under section 584A(1) in respect of his interest in the premises;

and the amount referred to in paragraph (a) shall be determined as at the date of the determination of the closing order.

(4) For the purpose of assessing the amount referred to in subsection (3)(a), the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(5) Any dispute as to the amount referred to in subsection (3)(a) shall be referred to and determined by the Lands Tribunal; and section 2 and subsections (1)(a) and (4) to (6) of section 4 of the Land Compensation Act 1961 shall, subject to any necessary modifications, apply for the purposes of this section as they apply for the purposes of that Act.

(6) In this section “premises” has the same meaning as in section 584A.]

**Textual Amendments**

**F621** Ss. 584A, 584B inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para. 75](#)

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**Textual Amendments**  
**F622** Ss.585—595 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(d), 194(4), Sch. 9 Pt. IV para. 76, **Sch. 12 Pt. II**

*Other land Compensation Matters*

**593—** ..... **F623**  
**595**

**Textual Amendments**  
**F623** Ss.585—595 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(d), 194(4), Sch. 9 Pt. IV para. 76, **Sch. 12 Pt. II**

**596 Power to compensate shop-keepers in areas affected by clearance.**

Where, as a result of action taken by a local housing authority under the provisions of Part IX relating to clearance areas, the population of the locality is materially decreased, the authority may pay to any person carrying on a retail shop in the locality such reasonable allowance as they think fit towards any loss involving personal hardship which in their opinion he will thereby sustain, but in estimating any such loss they shall have regard to the probable future development of the locality.

**597 Compensation payable on demolition of obstructive building.**

- (1) Where a building is demolished under section 287 (execution of obstructive building order), whether by the owner or by the local housing authority, compensation shall be paid by the authority to the owner in respect of loss arising from the demolition.
- (2) The compensation shall be assessed in accordance with Part I of the Land Compensation Act 1961 (determination of questions of disputed compensation).
- (3) In assessing the compensation no allowance shall be made on account of the demolition being compulsory.

**598** ..... **F624**

**Textual Amendments**  
**F624** S. 598 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(d), 194(4), Sch. 9 Pt. IV para. 77, **Sch. 12 Pt. II**

**599 Application of compensation due to another local authority.**

Compensation payable in respect of land of another local authority in pursuance of a compulsory purchase under—  
section 17 (provision of housing),

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..... F625 ,  
section 290 (acquisition of land for clearance), or  
section 300 (purchase of condemned house for temporary housing use)  
which would otherwise be paid into court in accordance with Schedule 1 to the  
Compulsory Purchase Act 1965 (purchase from persons not having power to dispose)  
may, if the Secretary of State consents, instead be paid and applied as he may  
determine.

#### Textual Amendments

**F625** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(d), 194(4),  
[Sch. 9 Pt. IV para. 78](#), [Sch. 12 Pt. II](#)

### *Supplementary provisions*

#### **600 Powers of entry.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving [<sup>F626</sup>seven days] notice of his intention to the occupier, and to the owner if the owner is known, enter premises for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised in respect of the premises.
- (2) An authorisation for the purposes of this section shall be in writing stating the particular purpose or purposes for which the entry is authorised [<sup>F627</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### Textual Amendments

**F626** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para. 79\(1\)](#)

**F627** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para. 79\(2\)](#)

#### **601 Penalty for obstruction.**

- (1) It is a summary offence [<sup>F628</sup>intentionally] to obstruct an officer of the local housing authority or of the Secretary of State, or any person authorised to enter premises in pursuance of this Part, in the performance of anything which he is by this Part required or authorised to do.
- (2) A person committing such an offence is liable on conviction to a fine not exceeding [<sup>F629</sup>level 3] on the standard scale.

#### Textual Amendments

**F628** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(d), [Sch. 9 Pt. IV para. 80\(1\)](#)

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**F629** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(d\), Sch. 9 Pt. IV para. 80\(2\)](#)

**602 Minor definitions.**

In this Part—

- F630**
- .....
- “owner” in relation to premises—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and
  - (b) includes also a person holding or entitled to the rents and profits of the premises [<sup>F631</sup>or part of the premises] under a lease of which the unexpired term exceeds three years.

**Textual Amendments**

**F630** Definition repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), ss. 165\(1\)\(d\), 194\(4\), Sch. 9 Pt. IV para. 81\(a\), Sch. 12 Pt. II](#)

**F631** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(d\), Sch. 9 Pt. IV para. 81\(b\)](#)

[<sup>F632</sup>**603 Index of defined expressions: Part XVII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or otherwise explaining an expression used in the same section or paragraph):—

clearance area	section 289
closing order	section 264
demolition order	section 265
compulsory purchase value	section 584A
lease and lessee	section 621
local housing authority	section 1, 2(2).]

**Textual Amendments**

**F632** [S. 603](#) substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(d\), Sch. 9 Pt. IV para. 82](#)

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## PART XVIII

### MISCELLANEOUS AND GENERAL PROVISIONS

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

**C150** Pt. XVIII (ss. 604–625): power to apply certain functions with modifications conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **65(6)**

#### *General provisions relating to housing conditions*

#### <sup>F633</sup> **604 Fitness for human habitation.**

- (1) Subject to subsection (2) below, a dwelling-house is fit for human habitation for the purposes of this Act unless, in the opinion of the local housing authority, it fails to meet one or more of the requirements in paragraphs (a) to (i) below and, by reason of that failure, is not reasonably suitable for occupation,—
  - (a) it is structurally stable;
  - (b) it is free from serious disrepair;
  - (c) it is free from dampness prejudicial to the health of the occupants (if any);
  - (d) it has adequate provision for lighting, heating and ventilation;
  - (e) it has an adequate piped supply of wholesome water;
  - (f) there are satisfactory facilities in the dwelling-house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;
  - (g) it has a suitably located water-closet for the exclusive use of the occupants (if any);
  - (h) it has, for the exclusive use of the occupants (if any), a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water; and
  - (i) it has an effective system for the draining of foul, waste and surface water;and any reference to a dwelling-house being unfit for human habitation shall be construed accordingly.
- (2) Whether or not a dwelling-house which is a flat satisfies the requirements in subsection (1), it is unfit for human habitation for the purposes of this Act if, in the opinion of the local housing authority, the building or a part of the building outside the flat fails to meet one or more of the requirements in paragraphs (a) to (e) below and, by reason of that failure, the flat is not reasonably suitable for occupation,—
  - (a) the building or part is structurally stable;
  - (b) it is free from serious disrepair;
  - (c) it is free from dampness;
  - (d) it has adequate provision for ventilation; and
  - (e) it has an effective system for the draining of foul, waste and surface water.
- (3) Subsection (1) applies in relation to a house in multiple occupation with the substitution of a reference to the house for any reference to a dwelling-house.

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- (4) Subsection (2) applies in relation to a flat in multiple occupation with the substitution for any reference to a dwelling-house which is a flat of a reference to the flat in multiple occupation.
- (5) The Secretary of State may by order amend the provisions of subsection (1) or subsection (2) in such manner and to such extent as he considers appropriate; and any such order—
- (a) may contain such transitional and supplementary provisions as the Secretary of State considers expedient; and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F633** S. 604 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), **Sch. 9 Pt. V para. 83**

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

**C151** S. 604 applied by [Local Government and Housing Act 1989 \(c.42, SIF 61\)](#), s. 112(6)

**C152** S. 604 applied by [S.I. 1990/431](#), **art. 4 Sch. 1 para. 30**

S. 604 applied (17.12.1996) by [1996 c. 53, s. 97\(1\)](#); [S.I. 1996/2842](#), **art. 3**

#### [<sup>F634</sup>604A Authority to consider guidance given by Secretary of State in deciding whether to take action under Section 189, Section 264, Section 265 or Section 289.

- (1) In deciding for the purposes of sections 189, 264, 265 and 289 whether the most satisfactory course of action, in respect of any dwelling-house, house in multiple occupation or building, is, if applicable,—
- (a) serving notice under subsection (1) of section 189; or
- (b) serving notice under subsection (1A) of that section; or
- (c) making a closing order under subsection (1) of section 264; or
- (d) making a closing order under subsection (2) of that section with respect to the whole or a part of the building concerned; or
- (e) making a demolition order under subsection (1) of section 265; or
- (f) making a demolition order under subsection (2) of that section; or
- (g) declaring the area in which the dwelling-house, house in multiple occupation or building is situated to be a clearance area in accordance with section 289;
- the local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (2) The Secretary of State may give guidance under subsection (1) to authorities generally or may give different guidance to different descriptions of authority or to authorities in different areas; and, without prejudice to the matters in respect of which the Secretary of State may give guidance, he may, in particular, give guidance in respect of financial and social considerations to be taken into account by authorities.
- (3) Where the Secretary of State proposes to give guidance under subsection (1), or to revise guidance already given, he shall lay a draft of the proposed guidance or alterations before each House of Parliament and—
- (a) he shall not give the guidance or revise the guidance until after the expiration of the period of forty days beginning with the day on which the draft is laid

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- (or, if copies are laid before each House of Parliament on different days, with the later of those days); and
- (b) if within that period either House resolves that the guidance or alterations be withdrawn he shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).
- (4) In computing for the purposes of subsection (3) the period of forty days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.]

#### Textual Amendments

**F634** S. 604A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 84](#)

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

**C153** S. 604A(2)-(4) applied (11.9.1996 for specified purposes otherwise 17.12.1996) by [1996 c. 53, s. 85\(2\)](#); [S.I. 1996/2352, art. 2\(2\)](#); [S.I. 1996/2842, art. 3](#)  
S. 604A(2)-(4) applied (11.9.1996 for specified purposes otherwise 16.12.1997) by [1996 c. 53, ss. 131\(5\), 133\(4\)](#); [S.I. 1996/2352, art. 2\(2\)](#); [S.I. 1997/2846, art. 2](#)

### [<sup>F635</sup> 605 Consideration by local housing authority of housing conditions in their district.

- (1) The local housing authority shall at least once in each year consider the housing conditions in their district with a view to determining what action to take in performance of their functions under—
- (a) Part VI (repair notices);
- (b) Part IX (slum clearance);
- (c) Part XI (houses in multiple occupation);
- (d) Part VII of the Local Government and Housing Act 1989 (renewal areas); and
- (e) Part VIII of that Act (grants towards cost of improvements and repairs etc.)
- (2) For the purposes of carrying out their duty under subsection (1), the authority and their officers shall comply with any directions the Secretary of State may give and shall keep such records and supply him with such information as he may specify.]

#### Textual Amendments

**F635** S. 605 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 85](#)

### 606 Reports on particular houses or areas.

- (1) The proper officer of the local housing authority shall make a report in writing to the authority whenever he is of the opinion—
- (a) that a [<sup>F636</sup>dwelling-house or house in multiple occupation] in their district is unfit for human habitation, or
- (b) that an area in their district should be dealt with as a clearance area;
- and the authority shall take into consideration as soon as may be any such report made to them.

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- (2) If a complaint in writing that a [<sup>F636</sup>dwelling-house or house in multiple occupation] is unfit for human habitation, or that an area should be dealt with as a clearance area, is made to the proper officer of the local housing authority by—
- (a) a justice of the peace having jurisdiction in any part of their district, or
  - (b) a parish or community council for a parish or community within their district,
- (2) the officer shall forthwith inspect the [<sup>F636</sup>dwelling-house or house in multiple occupation] or area and make a report to the authority stating the facts of the case and whether in his opinion the [<sup>F636</sup>dwelling-house or house in multiple occupation] is unfit for human habitation or the area should be dealt with as a clearance area.
- (3) The absence of a complaint under subsection (2) does not excuse the proper officer of the authority from inspecting a [<sup>F636</sup>dwelling-house or house in multiple occupation] or area or making a report on it under subsection (1)

#### Textual Amendments

**F636** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 165\(1\)\(e\), Sch. 9 Pt. V para. 86](#)

### *Environmental considerations*

#### **607 Local housing authority to have regard to environmental considerations.**

A local housing authority in preparing any proposals for the provision of housing accommodation, or in taking any action under this Act, shall have regard to—

- (a) the beauty of the landscape or countryside,
- (b) the other amenities of the locality, and
- (c) the desirability of preserving existing works of architectural, historic or artistic interest;

and they shall comply with such directions in that behalf as may be given to them by the Secretary of State.

#### **608 Acquisition of ancient monuments, &c.**

Land which is the site of an ancient monument or other object of archaeological interest—

- (a) may not be acquired for the purposes of . . . <sup>F637</sup> Part IX (slum clearance), and
- (b) may be acquired for the purposes of Part II (provision of housing) only by compulsory purchase order.

#### Textual Amendments

**F637** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), ss. 165\(1\)\(e\), 194\(4\), Sch. 9 Pt. V para. 87, Sch. 12 Pt. II](#)



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### *Enforceability of covenants, &c.*

#### **609 Enforcement of covenants against owner for the time being.**

Where—

- (a) a local housing authority have disposed of land held by them for any of the purposes of this Act and the person to whom the disposal was made has entered into a covenant with the authority concerning the land, or
- (b) an owner of any land has entered into a covenant with the local housing authority concerning the land for the purposes of any of the provisions of this Act,

the authority may enforce the covenant against the persons deriving title under the covenantor, notwithstanding that the authority are not in possession of or interested in any land for the benefit of which the covenant was entered into, in like manner and to the like extent as if they had been possessed of or interested in such land.

#### **610 Power of court to authorise conversion of premises into flats.**

- (1) The local housing authority or a person interested in [<sup>F638</sup>any premises] may apply to the county court where—

- (a) owing to changes in the character of the neighbourhood in which the [<sup>F639</sup>premises][<sup>F640</sup>are situated, they] cannot readily be let as a single [<sup>F640</sup>dwelling-house] but could readily be let for occupation if converted into two or more [<sup>F640</sup>dwelling-houses], or
- (b) planning permission has been granted under Part III of [<sup>F641</sup>the Town and Country Planning Act 1990] (general planning control) for the use of the [<sup>F639</sup>premises] as converted into two or more separate dwelling-houses instead of as a single dwelling-house,

and the conversion is prohibited or restricted by the provisions of the lease of the [<sup>F639</sup>premises], or by a restrictive covenant affecting the [<sup>F639</sup>premises], or otherwise.

- (2) The court may, after giving any person interested an opportunity of being heard, vary the terms of the lease or other instrument imposing the prohibition or restriction, subject to such conditions and upon such terms as the court may think just.

#### **Textual Amendments**

**F638** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 88](#)

**F639** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 88](#)

**F640** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 88](#)

**F641** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, [Sch. 2 para. 71\(5\)](#)

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### *Miscellaneous powers of local housing authorities*

#### **611 Removal or alteration of apparatus of statutory undertakers.**

- (1) Where by reason of the stopping up, diversion or alteration of the level or width of a street by a local housing authority under powers exercisable by them by virtue of this Act—
  - (a) the removal or alteration of apparatus belonging to statutory undertakers, or
  - (b) the execution of works for the provision of substituted apparatus, whether permanent or temporary,
 is reasonably necessary for the purposes of their undertaking, the statutory undertakers may by notice in writing served on the authority require them to remove or alter the apparatus or to execute the works.
- (2) Where such a requirement is made and not withdrawn, the authority shall give effect to it unless—
  - (a) they serve notice in writing on the undertakers of their objection to the requirement within 28 days of the service of the notice upon them and
  - (b) the requirement is determined by arbitration to be unreasonable.
- (3) At least seven days before commencing any works which they are required under this section to execute, the authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention to do so; and if the undertakers so elect within seven days from the date of service of the notice on them, they shall themselves execute the works.
- (4) If the works are executed by the authority, they shall be executed at the authority's expense and under the superintendence (also at the authority's expense) and to the reasonable satisfaction of the undertakers; and if the works are executed by the undertakers, they shall be executed in accordance with the reasonable directions and to the reasonable satisfaction of the authority, and the reasonable costs of the works shall be repaid to the undertakers by the authority.
- (5) Any difference arising between statutory undertakers and a local housing authority under subsection (3) or (4), and any matter which by virtue of subsection (2)(b) is to be determined by arbitration, shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the Secretary of State.
- (6) In this section—
  - (a) “statutory undertakers” means any persons authorised by an enactment, or by an order, rule or regulation made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . <sup>F642</sup> . . . <sup>F643</sup> or other public undertaking;
  - (b) “apparatus” means sewers, drains, culverts, watercourses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying street lamps;
  - (c) references to the alteration of apparatus include diversion and the alteration of position or level.

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#### Textual Amendments

**F642** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

**F643** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(2)(3), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

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

**C154** S. 611 extended by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 58, **Sch. 2 para. 1(1)**

**C155** S. 611 extended by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(1), 193(1), Sch. 25 para. 1(2)(xxxii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

**C156** S. 611 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 2(4)(e)(9), Sch. 17 paras. 33, **35(1)**

**C157** S. 611 modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(2)(o)** (with s. 106); S.I. 2001/869, **art.2**

### General provisions

#### 612 Exclusion of Rent Act protection.

Nothing in the Rent Acts [<sup>F644</sup>or Part I of the Housing Act 1988] prevents possession being obtained of a [<sup>F645</sup>dwelling-house] of which possession is required for the purpose of enabling a local housing authority to exercise their powers under any enactment relating to housing.

#### Textual Amendments

**F644** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 63**

**F645** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), **Sch. 9 Pt. V para. 89**

#### 613 Liability of directors, &c. in case of offence by body corporate.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### 614 Power to prescribe forms &c.

- (1) The Secretary of State may by regulations prescribe—
  - (a) anything which by this Act is to be prescribed; or
  - (b) the form of any notice, advertisement, statement or other document which is required or authorised to be used under or for the purposes of this Act.

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- (2) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The power conferred by this section is not exercisable where specific provision for prescribing a thing, or the form of a document, is made elsewhere.

#### **615 Dispensation with advertisements and notices.**

- (1) The Secretary of State may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act if he is satisfied that there is reasonable cause for dispensing with the publication or service.
- (2) A dispensation may be given by the Secretary of State—
  - (a) either before or after the time at which the advertisement is required to be published or the notice is required to be served, and
  - (b) either unconditionally or upon such conditions, as to the publication of other advertisements or the service of other notices or otherwise, as the Secretary of State thinks fit,
 due care being taken by him to prevent the interests of any persons being prejudiced by the dispensation.

#### **616 Local inquiries.**

For the purposes of the execution of his powers and duties under this Act, the Secretary of State may cause such local inquiries to be held as he may think fit.

#### **617 Service of notices.**

- (1) Where under any provision of this Act it is the duty of a local housing authority to serve a document on a person who is to the knowledge of the authority—
  - (a) a person having control of premises, however defined, or
  - (b) a person managing premises, however defined, or
  - (c) a person having an estate or interest in premises, whether or not restricted to persons who are owners or lessees or mortgagees or to any other class of those having an estate or interest in premises,
 the authority shall take reasonable steps to identify the person or persons coming within the description in that provision.
- (2) A person having an estate or interest in premises may for the purposes of any provision to which subsection (1) applies give notice to the local housing authority of his interest in the premises and they shall enter the notice in their records.
- (3) A document required or authorised by this Act to be served on a person as being a person having control of premises (however defined) may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by—
  - (a) addressing it to him by the description of “person having control of” the premises (naming them) to which it relates, and
  - (b) delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

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- (4) Where under any provision of this Act a document is to be served on—
- (a) the person having control of premises, however defined, or
  - (b) the person managing premises, however defined, or
  - (c) the owner of premises, however defined,
- and more than one person comes within the description in the enactment, the document may be served on more than one of those persons.

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

C158 S. 617 applied (17.12.1996) by 1996 c. 53, s. 82(5); S.I. 1996/2842, art. 3

**618 The Common Council of the City of London.**

- (1) The Common Council of the City of London may appoint a committee, consisting of so many persons as they think fit, for any purposes of this Act or the <sup>M102</sup>Housing Associations Act 1985 which in their opinion may be better regulated and managed by means of a committee.
- (2) A committee so appointed—
- (a) shall consist as to a majority of its members of members of the Common Council, and
  - (b) shall not be authorised to borrow money or to make a rate,
- and shall be subject to any regulations and restrictions which may be imposed by the Common Council.
- (3) A person is not, by reason only of the fact that he occupies a house at a rental from the Common Council, disqualified from being elected or being a member of that Council or any committee of that Council; but no person shall vote as a member of that Council, or any such committee, on a resolution or question which is proposed or arises in pursuance of this Act or the Housing Associations Act 1985 and relates to land in which he is beneficially interested.
- (4) A person who votes in contravention of subsection (3) commits a summary offence and is liable on conviction to a fine not exceeding [<sup>F646</sup>level 4 on the standard scale]; but the fact of his giving the vote does not invalidate any resolution or proceeding of the authority.

**Textual Amendments**

F646 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 24(1), Sch. 5 Pt. 1 para. 6(1)  
(2)

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

C159 S. 618 applied (18.1.2005) by Housing Act 2004 (c. 34), ss. 261(7), 270(3)(a)

**Marginal Citations**

M102 1985 c. 69.

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### **619 The Inner and Middle Temples.**

- (1) For the purposes of Part XII (common lodging houses) the local housing authority—
  - (a) for the Inner Temple is the Sub-Treasurer of the Inner Temple, and
  - (b) for the Middle Temple is the Under-Treasurer of the Middle Temple.
- (2) The other provisions of this Act are among those for which provision may be made by Order in Council under section 94 of the Local Government Act 1985 (general power to provide for exercise of local authority functions as respects the Temples).

### **620 The Isles of Scilly.**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **621 Meaning of “lease” and “tenancy” and related expressions.**

- (1) In this Act “lease” and “tenancy” have the same meaning.
- (2) Both expressions include—
  - (a) a sub-lease or sub-tenancy, and
  - (b) an agreement for a lease or tenancy (or sub-lease or sub-tenancy).
- (3) The expressions “lessor” and “lessee” and “landlord” and “tenant”, and references to letting, to the grant of a lease or to covenants or terms, shall be construed accordingly.

### **[<sup>F647</sup>621A Meaning of “service charge” and related expressions.**

- (1) In this Act “service charge” means an amount payable by a purchaser or lessee of premises—
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the vendor’s or lessor’s costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the payee, or (in the case of a lease) a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose—
  - (a) “costs” includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
- (4) In relation to a service charge—
  - (a) the “payee” means the person entitled to enforce payment of the charge, and
  - (b) the “payer” means the person liable to pay it.]

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### Textual Amendments

**F647** S. 621A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 39](#)

## 622 Minor definitions: general.

In this Act—

[<sup>F648cc</sup>“assured tenancy” has the same meaning as in Part I of the Housing Act 1988;

“assured agricultural occupancy” has the same meaning as in Part I of the Housing Act 1988]

“bank” means—

- [<sup>F649</sup>(a) an institution authorised under the Banking Act 1987, or]
- (b) a company as to which the Secretary of State was satisfied immediately before the repeal of the Protection of Depositors Act 1963 that it ought to be treated as a banking company or discount company for the purposes of that Act;

“building regulations” means—

- (a) building regulations made under Part I of the Building Act 1984,
- <sup>F650</sup>(b) . . . . .
- (c) any provision of a local Act, or of a byelaw made under a local Act, dealing with the construction and drainage of new buildings and the laying out and construction of new streets;

[<sup>F651</sup>“building society” means a building society within the meaning of the Building Societies Act 1986]

“cemetery” has the same meaning as in section 214 of the Local Government Act 1972;

“charity” has the same meaning as in the Charities Act 1960;

[<sup>F652cc</sup>“district valuer”, in relation to any land in the district of a local housing authority, means an officer of the Commissioners of Inland Revenue appointed by them for the purpose of exercising, in relation to that district, the functions of the district valuer under this Act;]

“friendly society” means a friendly society, or a branch of a friendly society, registered under the Friendly Societies Act 1974 or earlier legislation;

“general rate fund” means—

- (a) in relation to the Council of the Isles of Scilly, the general fund of that council;
- (b) in relation to the Common Council of the City of London, that council’s general rate;

“hostel” means a building in which is provided, for persons generally or for a class or classes of persons—

- (a) residential accommodation otherwise than in separate and self-contained sets of premises, and
- (b) either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“insurance company” means an insurance company to which Part II of the Insurance Companies Act 1982 applies;

“protected occupancy” and “protected occupier” have the same meaning as in the Rent (Agriculture) Act 1976;

“protected tenancy” has the same meaning as in Rent Act 1977;

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“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force as defined by section 223 of the Air Force Act 1955, Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

“the Rent Acts” means the Rent Act 1977 and the Rent (Agriculture) Act 1976;

“restricted contract” has the same meaning as in the Rent Act 1977;

“shared ownership lease” means a lease—

- (a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling or of the cost of providing it, or
- (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling;

“standard scale”, in reference to the maximum fine on conviction of a summary offence, has the meaning given by section 75 of the Criminal Justice Act 1982;

“statutory maximum”, in reference to the maximum fine on summary conviction of an offence triable either summarily or on indictment, has the meaning given by section 74 of the Criminal Justice Act 1982;

“statutory tenancy” and “statutory tenant” means a statutory tenancy or statutory tenant within the meaning of the Rent Act 1977 or the Rent (Agriculture) Act 1976;

“street” includes any court, alley, passage, square or row of houses, whether a thoroughfare or not;

“subsidiary” has [<sup>F653</sup>the meaning given by section 736 of] the Companies Act 1985;

“trustee savings bank” means a trustee savings bank registered under the Trustee Savings Banks Act 1981 or earlier legislation.

#### Textual Amendments

**F648** Definitions inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 64**

**F649** Words substituted by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(1), **Sch. 6 para. 21**

**F650** Para. (b) in definition in s. 622 repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 84(6), **Sch. 19, Pt.V** (with s. 84(5)); S.I. 1991/2067, **art.3**

**F651** Definition substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(1), **Sch. 18 Pt. I para. 18(5)**

**F652** Entry substituted by S.I. 1990/434, reg. 2, **Sch. para. 23**

**F653** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 144(4), **Sch. 18 para. 40**

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

**C160** S. 622 extended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para.19**

## 623 Minor definitions: Part XVIII

In this Part—

[<sup>F654</sup>“dwelling-house” and “flat”, except in the expression “flat in multiple occupation”, shall be construed in accordance with subsection (2);



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“house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI;]

“owner”, in relation to premises—

- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple absolute in the premises, whether in possession or in reversion, and
- (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

[<sup>F655</sup>(2) For the purposes of this Part, “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.]

#### Textual Amendments

**F654** Definitions substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 90\(1\)](#)

**F655** [S. 623\(2\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), [Sch. 9 Pt. V para. 90\(2\)](#)

## 624 Index of defined expressions: Part XVIII.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section):—

clearance area	section 289
district (of a local housing authority)	section 2(1)
[ <sup>F656</sup> dwelling-house]	[ <sup>F656</sup> section 623]
[ <sup>F656</sup> flat]	[ <sup>F656</sup> section 623]
[ <sup>F656</sup> flat in multiple occupation]	[ <sup>F656</sup> section 623]
[ <sup>F656</sup> house in multiple occupation]	[ <sup>F656</sup> section 623]
<sup>F657</sup>	<sup>F657</sup>
lease and let	section 621
local housing authority	section 1, 2(2)
owner	section 623
Rent Acts	section 622
standard scale (in reference to the maximum fine on summary conviction)	section 622
street	section 622
unfit for human habitation	section 604

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#### **Textual Amendments**

**F656** Entries inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(e), **Sch. 9 Pt. V para. 91(b)**

**F657** Entry repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(e), 194(4), Sch. 9 Pt. V para. 91(a), **Sch. 12 Pt. II**

#### *Final provisions*

#### **625 Short title, commencement and extent.**

- (1) This Act may be cited as the Housing Act 1985.
- (2) This Act comes into force on 1st April 1986.
- (3) This Act extends to England and Wales only.

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## SCHEDULES

### SCHEDULE 1

Section 79.

#### TENANCIES WHICH ARE NOT SECURE TENANCIES

##### *Long leases*

1 A tenancy is not a secure tenancy if it is a long tenancy.

VALID FROM 04/02/1997

##### *[<sup>F658</sup> Introductory tenancies]*

###### Textual Amendments

**F658** Sch. 1 para. 1A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 141(1), Sch. 14 para. 5; S.I. 1997/66, art. 2 (subject to savings in Sch.)

[<sup>F659</sup> 1A A tenancy is not a secure tenancy if it is an introductory tenancy or a tenancy which has ceased to be an introductory tenancy—

- (a) by virtue of section 133(3) of the Housing Act 1996 (disposal on death to non-qualifying person), or
- (b) by virtue of the tenant, or in the case of a joint tenancy every tenant, ceasing to occupy the dwelling-house as his only or principal home.]

###### Textual Amendments

**F659** Sch. 1 para. 1A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 141(1), Sch. 14 para. 5; S.I. 1997/66, art. 2 (subject to savings in Sch.)

VALID FROM 30/06/2004

[<sup>F660</sup> 1B A tenancy is not a secure tenancy if it is a demoted tenancy within the meaning of section 143A of the Housing Act 1996.]

###### Textual Amendments

**F660** Sch. 1 para. 1B inserted (30.6.2004 for E. and 30.9.2004 for specified purposes for W. and 30.4.2005 otherwise for W.) by Anti-social Behaviour Act 2003 (c. 38), ss. 14, 93(1)(2), Sch. 1 para. 2(4); S.I. 2004/1502, art. 2(a)(iii) (subject to Sch.); S.I. 2004/2557, art. 2(a)(ii) (subject to Sch.); S.I. 2005/1225, art. 2(b)

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*Premises occupied in connection with employment*

- 2 (1) A tenancy is not a secure tenancy if the tenant is an employee of the landlord or of—  
 a local authority,  
 a new town corporation,  
 [<sup>F661</sup>a housing action trust]  
 an urban development corporation,  
 the Development Board for Rural Wales, or  
 the governors of an aided school,  
 and his contract of employment requires him to occupy the dwelling-house for the better performance of his duties.
- (2) A tenancy is not a secure tenancy if the tenant is a member of a police force and the dwelling-house is provided for him free of rent and rates in pursuance of regulations made under section 33 of the <sup>M103</sup>Police Act 1964 (general regulations as to government, administration and conditions of service of police forces).
- (3) A tenancy is not a secure tenancy if the tenant is an employee of a fire authority (within the meaning of the Fire Services Acts 1947 to 1959) and—  
 (a) his contract of employment requires him to live in close proximity to a particular fire station, and  
 (b) the dwelling-house was let to him by the authority in consequence of that requirement.
- (4) A tenancy is not a secure tenancy if—  
 (a) within the period of three years immediately preceding the grant the conditions mentioned in sub-paragraph (1), (2) or (3) have been satisfied with respect to a tenancy of the dwelling-house, and  
 (b) before the grant the landlord notified the tenant in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception.  
 until the periods during which those conditions are not satisfied with respect to the tenancy amount in aggregate to more than three years.
- (5) In this paragraph “contract of employment” means a contract of service or apprenticeship, whether express or implied and (if express) whether oral or in writing.

**Textual Amendments**

**F661** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 83(6)(a)**

**Marginal Citations**

**M103** 1964 c. 48

*Land acquired for development*

- 3 (1) A tenancy is not a secure tenancy if the dwelling-house is on land which has been acquired for development and the dwelling-house is used by the landlord, pending development of the land, as temporary housing accommodation.

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- (2) In this paragraph “development” has the meaning given by [<sup>F662</sup>section 55 of the Town and Country Planning Act 1990] (general definition of development for purposes of that Act).

#### Textual Amendments

**F662** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 71(6)**

#### *Accommodation for homeless persons*

- 4 (1) A tenancy granted in pursuance of—
- (a) section 63 (duty to house pending inquiries in case of apparent priority need),
  - (b) section 65(3) (duty to house temporarily person found to have priority need but to have become homeless intentionally), or
  - (c) section 68(1) duty to house pending determination whether conditions for referral of application are satisfied),
- is not a secure tenancy before the expiry of the period of twelve months beginning with the date specified in sub-paragraph (2), unless before the expiry of that period the tenant is notified by the landlord that the tenancy is to be regarded as a secure tenancy.
- (2) The date referred to in sub-paragraph (1) is the date on which the tenant received the notification required by section 64(1) (notification of decision on question of homelessness or threatened homelessness) or, if he received a notification under section 68(3) (notification of which authority has duty to house), the date on which he received that notification.

VALID FROM 01/01/2009

#### *[<sup>F663</sup>Family intervention tenancies*

#### Textual Amendments

**F663** Sch. 1 para. 4ZA and preceding cross-heading inserted (1.1.2009 for E. and otherwise prosp.) by Housing and Regeneration Act 2008 (c. 17), **ss. 297(1), 325**; S.I. 2008/3068, **art. 4(11)** (with arts. 6-13)

- 4ZA (1) A tenancy is not a secure tenancy if it is a family intervention tenancy.
- (2) But a tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.
- (3) In this paragraph “a family intervention tenancy” means, subject to sub-paragraph (4), a tenancy granted by a local housing authority in respect of a dwelling-house—
- (a) to a person (“the new tenant”) against whom a possession order under section 84 in respect of another dwelling-house—

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- (i) has been made, in relation to a secure tenancy, on ground 2 or 2A of Part 1 of Schedule 2;
    - (ii) could, in the opinion of the authority, have been so made in relation to such a tenancy; or
    - (iii) could, in the opinion of the authority, have been so made if the person had had such a tenancy; and
  - (b) for the purposes of the provision of behaviour support services.
- (4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the local housing authority has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.
- (5) A notice under this sub-paragraph is a notice stating—
- (a) the reasons for offering the tenancy to the new tenant;
  - (b) the dwelling-house in respect of which the tenancy is to be granted;
  - (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
  - (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
  - (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
  - (f) any likely action by the local housing authority if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.
- (6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).
- (7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.
- (9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
  - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Subject to this, a statutory instrument containing regulations made under this paragraph—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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(12) In this paragraph—

“appropriate national authority”—

- (a) in relation to England, means the Secretary of State; and
- (b) in relation to Wales, means the Welsh Ministers;

“behaviour support agreement” means an agreement in writing about behaviour and the provision of support services made between the new tenant and the local housing authority concerned (or between persons who include those persons);

“behaviour support services” means relevant support services to be provided by any person to—

- (a) the new tenant; or
- (b) any person who is to reside with the new tenant;

for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);

“family intervention tenancy” has the meaning given by sub-paragraph (3);

“the new tenant” has the meaning given by sub-paragraph (3)(a);

“relevant support services” means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement.]

VALID FROM 11/11/1999

*[<sup>F664</sup> Accommodation for asylum-seekers]*

**Textual Amendments**

**F664** Sch. 1 para. 4A and cross-heading inserted (11.11.1999) by 1999 c. 33, s. 169(1), Sch. 14 para. 81

[<sup>F665</sup>4A(1) A tenancy is not a secure tenancy if it is granted in order to provide accommodation under Part VI of the Immigration and Asylum Act 1999.

(2) A tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.]

**Textual Amendments**

**F665** Sch. 1 para. 4A and cross-heading inserted (11.11.1999) by 1999 c. 33, s. 169(1), Sch. 14 para. 81

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VALID FROM 15/06/2005

*[<sup>F666</sup>Accommodation for persons with Temporary Protection*

**Textual Amendments**

**F666** Sch. 1 para. 4B and cross-heading inserted (15.6.2005) by The Displaced Persons (Temporary Protection) Regulations (S.I. 2005/1379), reg. 1, {Sch. para. 4}

4B A tenancy is not a secure tenancy if it is granted in order to provide accommodation under the Displaced Persons (Temporary Protection) Regulations 2005.]

*Temporary accommodation for persons taking up employment*

- 5 (1) A tenancy is not a secure tenancy before the expiry of one year from the grant if—
- (a) the person to whom the tenancy was granted was not, immediately before the grant, resident in the district in which the dwelling-house is situated,
  - (b) before the grant of the tenancy, he obtained employment, or an offer of employment, in the district or its surrounding area,
  - (c) the tenancy was granted to him for the purpose of meeting his need for temporary accommodation in the district or its surrounding area in order to work there, and of enabling him to find permanent accommodation there, and
  - (d) the landlord notified him in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception;
- unless before the expiry of that year the tenant has been notified by the landlord that the tenancy is to be regarded as a secure tenancy.
- (2) In this paragraph—
- “district” means district of a local housing authority; and
- “surrounding area”, in relation to a district, means the area consisting of each district that adjoins it

*Short-term arrangements*

- 6 A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been leased to the landlord with vacant possession for use as temporary housing accommodation,
  - (b) the terms on which it has been leased include provision for the lessor to obtain vacant possession from the landlord on the expiry of a specified period or when required by the lessor,
  - (c) the lessor is not a body which is capable of granting secure tenancies, and
  - (d) the landlord has no interest in the dwelling-house other than under the lease in question or as a mortgagee.



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### *Temporary accommodation during works*

- 7 A tenancy is not a secure tenancy if—
- (a) the dwelling-house has been made available for occupation by the tenant (or a predecessor in title of his) while works are carried out on the dwelling-house which he previously occupied as his home, and
  - (b) the tenant or predecessor was not a secure tenant of that other dwelling-house at the time when he ceased to occupy it as his home.

### *Agricultural holdings*

- 8 A tenancy is not a secure tenancy if the dwelling-house is comprised in an agricultural holding (within the meaning of the [<sup>F667</sup>Agricultural Holdings Act 1986]) and is occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding.

#### **Textual Amendments**

**F667** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, [Sch. 14 para. 63](#)

### *Licensed premises*

- 9 A tenancy is not a secure tenancy if the dwelling-house consists of or includes premises licensed for the sale of intoxicating liquor for consumption on the premises.

### *Student lettings*

- 10 (1) A tenancy of a dwelling-house is not a secure tenancy before the expiry of the period specified in sub-paragraph (3) if—
- (a) it is granted for the purpose of enabling the tenant to attend a designated course at an educational establishment, and
  - (b) before the grant of the tenancy the landlord notified him in writing of the circumstances in which this exception applies and that in its opinion the proposed tenancy would fall within this exception;
- unless the tenant has before the expiry of that period been notified by the landlord that the tenancy is to be regarded as a secure tenancy.
- (2) A landlord's notice under sub-paragraph (1)(b) shall specify the educational establishment which the person concerned proposes to attend.
- (3) The period referred to in sub-paragraph (1) is—
- (a) in a case where the tenant attends a designated course at the educational establishment specified in the landlord's notice, the period ending six months after the tenant ceases to attend that (or any other) designated course at that establishment;
  - (b) in any other case, the period ending six months after the grant of the tenancy.

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(4) In this paragraph—

“designated course” means a course of any kind designated by regulations made by the Secretary of State for the purposes of this paragraph;

“educational establishment” means a university or [<sup>F668</sup>institution which provides higher education or further education (or both); and for the purposes of this definition “higher education” and “further education” have the same meaning as in the Education Act 1944].

(5) Regulations under sub-paragraph (4) shall be made by statutory instrument and may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

**Textual Amendments**

**F668** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 Pt. III para. 95**

*1954 Act tenancies*

11 A tenancy is not a secure tenancy if it is one to which Part II of the <sup>M104</sup>Landlord and Tenant Act 1954 applies (tenancies of premises occupied for business purposes).

**Marginal Citations**

**M104** 1954 c. 56.

*Almshouses*

- 12 (1) A licence to occupy a dwelling-house is not a secure tenancy if—
- (a) the licence was granted by an almshouse charity, and
  - (b) any sum payable by the licensee under the licence does not exceed the maximum contribution that the Charity Commissioners have from time to time authorised or approved for the almshouse charity as a contribution towards the cost of maintaining its almshouses and essential services in them.
- (2) In this paragraph “almshouse charity” means a corporation or body of persons which is a charity and is prevented by its rules or constituent instrument from granting a tenancy of the dwelling-house.

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## SCHEDULE 2

Section 84.

### GROUND FOR POSSESSION OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

#### PART I

##### GROUND ON WHICH COURT MAY ORDER POSSESSION IF IT CONSIDERS IT REASONABLE

###### *Ground 1*

Rent lawfully due from the tenant has not been paid or an obligation of the tenancy has been broken or not performed.

###### *Ground 2*

The tenant or a person residing in the dwelling-house has been guilty of conduct which is a nuisance or annoyance to neighbours, or has been convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes.

VALID FROM 04/02/1997

###### *[<sup>F669</sup> Ground 2A]*

###### **Textual Amendments**

**F669** Sch. 2 Ground 2A and inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

[<sup>F670</sup>The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return.]

###### **Textual Amendments**

**F670** Sch. 2 Ground 2A and cross-heading inserted (4.2.1997) by 1996 c. 52, s. 145; S.I. 1997/66, art. 2 (subject to savings in Sch.)

###### *Ground 3*

The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with

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the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 4

The condition of furniture provided by the landlord for use under the tenancy, or for use in the common parts, has deteriorated owing to ill-treatment by the tenant or a person residing in the dwelling-house and, in the case of ill-treatment by a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant.

#### Ground 5

VALID FROM 04/02/1997

The tenant is the person, or one of the persons, to whom the tenancy was granted and the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly

[<sup>F671</sup>by—

- (a) the tenant, or
- (b) a person acting at the tenant's instigation]

##### Textual Amendments

**F671** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

##### Textual Amendments

**F671** Sch. 2 Ground 5(a)(b) and word “by” immediately preceding it substituted (4.2.1997) for words by 1996 c. 52, s. 146; S.I. 1997/66, art. 2 (subject to savings in Sch.)

#### Ground 6

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of section 92 (assignments by way of exchange) and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that section.

In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent

#### Ground 7

The dwelling-house 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, and—

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- (a) the dwelling-house was let to the 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,  
[<sup>F672</sup>a housing action trust]  
an urban development corporation,  
the Development Board for Rural Wales, or  
the governors of an aided school,
- and
- (b) the tenant or a person residing in the dwelling-house has been guilty of conduct such that, having regard to the purpose for which the building is used, it would not be right for him to continue in occupation of the dwelling-house.

#### Textual Amendments

**F672** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(6)(b)

#### Ground 8

The dwelling-house was made available for occupation by the tenant (or a predecessor in title of his) while works were carried out on the dwelling-house which he previously occupied as his only or principal home and—

- (a) the tenant (or predecessor) was a secure tenant of the other dwelling-house at the time when he ceased to occupy it as his home,
- (b) the tenant (or predecessor) accepted the tenancy of the dwelling-house of which possession is sought on the understanding that he would give up occupation when, on completion of the works, the other dwelling-house was again available for occupation by him under a secure tenancy, and
- (c) the works have been completed and the other dwelling-house is so available.

### PART II

GROUNDS ON WHICH THE COURT MAY ORDER POSSESSION  
IF SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

#### Ground 9

The dwelling-house is overcrowded, within the meaning of Part X, in such circumstances as to render the occupier guilty of an offence.

#### Ground 10

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

- (a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or
- (b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,

and cannot reasonably do so without obtaining possession of the dwelling-house.

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### [<sup>F673</sup> Ground 10A]

#### Textual Amendments

**F673** Sch. 2 Pt. II Ground 10A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. **9(1)**

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

**C161** Sch. 2 Pt. II Ground 10A modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), art. 3, **Sch. para. 2(1)** (with art. 6); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the [<sup>F674</sup>Corporation] in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

*or*

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.

#### Textual Amendments

**F674** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

### Ground 11

The landlord is a charity and the tenant's continued occupation of the dwelling-house would conflict with the objects of the charity.

## PART III

GROUNDS ON WHICH THE COURT MAY ORDER POSSESSION IF IT CONSIDERS IT  
 REASONABLE AND SUITABLE ALTERNATIVE ACCOMMODATION IS AVAILABLE

### Ground 12

The dwelling-house 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—

- (a) the dwelling-house was let to the 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,
  - [<sup>F675</sup>a housing action trust]
  - an urban development corporation,
  - the Development Board for Rural Wales, or
  - the governors of an aided school,

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and that employment has ceased, and

- (b) the landlord reasonably requires the dwelling-house for occupation as a residence for some person either engaged in the employment of the landlord, or of such a body, or with whom a contract for such employment has been entered into conditional on housing being provided.

#### Textual Amendments

**F675** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 83(6)(b)

#### Ground 13

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of a kind provided by the dwelling-house and—

- (a) there is no longer such a person residing in the dwelling-house, and
- (b) the landlord requires it for occupation (whether alone or with members of his family) by such a person.

#### Ground 14

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (whether alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing, and—

- (a) either there is no longer such a person residing in the dwelling-house or the tenant has received from a local housing authority an offer of accommodation in premises which are to be let as a separate dwelling under a secure tenancy, and
- (b) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by such a person.

#### Ground 15

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 with special needs and—

- (a) a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs,
- (b) there is no longer a person with those special needs residing in the dwelling-house, and
- (c) the landlord requires the dwelling-house for occupation (whether alone or with members of his family) by a person who has those special needs.

#### Ground 16

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- (a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy), the tenant being qualified to succeed by virtue of section 87(b) (members of family other than spouse), and
- (b) notice of the proceedings for possession was served under section 83 more than six months but less than twelve months after the date of the previous tenant's death.

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The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

- (a) the age of the tenant,
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home, and
- (c) any financial or other support given by the tenant to the previous tenant.

## PART IV

### SUITABILITY OF ACCOMMODATION

1 For the purposes of section 84(2)(b) and (c) (case in which court is not to make an order for possession unless satisfied that suitable accommodation will be available) accommodation is suitable if it consists of premises—

- (a) which are to be let as a separate dwelling under a secure tenancy, or
- (b) which are to be let as a separate dwelling under a protected tenancy, not being a tenancy under which the landlord might recover possession under one of the Cases in Part II of Schedule 15 to the <sup>M105</sup>Rent Act 1977 (cases where court must order possession), [<sup>F676</sup>or
- (c) which are to be let as a separate dwelling under an assured tenancy which is neither an assured shorthold tenancy, within the meaning of Part I of the Housing Act 1988, nor a tenancy under which the landlord might recover possession under any of Grounds 1 to 5 in Schedule 2 to that Act]

and, in the opinion of the court, the accommodation is reasonably suitable to the needs of the tenant and his family.

#### Textual Amendments

**F676** Word “or” and Sch. 2 Pt. IV para. 1(c) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. I para. 65](#)

#### Marginal Citations

**M105** 1977 c. 42.

2 In determining whether the accommodation is reasonably suitable to the needs of the tenant and his family, regard shall be had to—

- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
- (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
- (c) its distance from the home of any member of the tenant’s family if proximity to it is essential to that member’s or the tenant’s well-being;
- (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
- (e) the terms on which the accommodation is available and the terms of the secure tenancy;
- (f) if furniture was provided by the landlord for use under the secure tenancy, whether furniture is to be provided for use in the other accommodation, and if so the nature of the furniture to be provided.



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- 3 Where possession of a dwelling-house is sought on ground 9 (overcrowding such as to render occupier guilty of offence), other accommodation may be reasonably suitable to the needs of the tenant and his family notwithstanding that the permitted number of persons for that accommodation, as defined in section 326(3) (overcrowding: the space standard), is less than the number of persons living in the dwelling-house of which possession is sought.
- 4 (1) A certificate of the appropriate local housing authority that they will provide suitable accommodation for the tenant by a date specified in the certificate is conclusive evidence that suitable accommodation will be available for him by that date.
- (2) The appropriate local housing authority is the authority for the district in which the dwelling-house of which possession is sought is situated.
- (3) This paragraph does not apply where the landlord is a local housing authority.

## [<sup>F677</sup>PART V

### APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

#### Textual Amendments

**F677** Sch. 2 Pt. 5 inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), **s. 9(2)**

- 1 (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and re-development of an area of land consisting of or including the whole or part of one or more dwelling-houses.
- (2) For this purpose—
- (a) “disposal” means a disposal of any interest in the land (including the grant of an option), and
- (b) “redevelopment” means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land;
- and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.
- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
- (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
- (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
- (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,

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and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of the notice), make representations to the landlord about the proposal.

- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
  - (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,
  - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and
  - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—
- (a) part only of one or more dwelling-houses, or
  - (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
- unless he is satisfied that the inclusion is justified in the circumstances.
- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
- (a) add, remove or vary conditions to which the approval is subject; or
  - (b) extend or restrict the period after which the approval is to expire.
- (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.
- 6 Where the landlord is a registered housing association, the [F678 Corporation], and not the Secretary of State, has the functions conferred by this Part of this Schedule.

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### Textual Amendments

**F678** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

- 7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.]

## SCHEDULE 3

Section 92.

### GROUND FOR WITHHOLDING CONSENT TO ASSIGNMENT BY WAY OF EXCHANGE

#### *Ground 1*

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

#### *Ground 2*

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in Part I of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 (notice of proceedings for possession) which specifies one or more of those grounds and is still in force.

VALID FROM 15/06/2005

#### *[<sup>F679</sup>Ground 2A*

### Textual Amendments

**F679** Sch. 3 Ground 2A inserted (6.6.2005 for E. and 14.7.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), ss. [191](#), [270\(4\)\(5\)](#); S.I. 2005/1451, [art. 2\(b\)](#); S.I. 2005/1814, [art. 2\(a\)](#)

Either—

- (a) a relevant order or suspended Ground 2 or 14 possession order is in force, or
- (b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made,

in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

- an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);
- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

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an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);  
 an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or  
 an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.]

### *Ground 3*

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

### *Ground 4*

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

### *Ground 5*

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 the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of—
  - the landlord,
  - a local authority,
  - a new town corporation,
  - [<sup>F680</sup> a housing action trust]
  - the Development Board for Rural Wales,
  - an urban development corporation, or
  - the governors of an aided school.

#### **Textual Amendments**

**F680** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 83\(6\)\(c\)](#)

### *Ground 6*

The landlord is a charity and the proposed assignee’s occupation of the dwelling-house would conflict with the objects of the charity.

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#### Ground 7

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

#### Ground 8

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

#### Ground 9

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 with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

#### <sup>F681</sup> Ground 10

##### Textual Amendments

**F681** Sch. 3 Ground 10 added by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(1\)](#), **Sch. 5 Pt. I para. 7**

The dwelling-house is the subject of a management agreement under which the manager is a housing association of which at least half the members are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association.]

#### <sup>F682</sup>SCHEDULE 3A

#### CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD]

##### Textual Amendments

**F682** Sch. 3A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 6\(2\)\(3\)](#), **Sch. 1**

#### <sup>F682</sup> Disposals to which this Schedule applies

- (1) This Schedule applies to the disposal by a local authority of an interest in land as a result of which a secure tenant of the authority will become the tenant of a private sector landlord.

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- (2) For the purposes of this Schedule the grant of an option which if exercised would result in a secure tenant of a local authority becoming the tenant of a private sector landlord shall be treated as a disposal of the interest which is the subject of the option.
- (3) Where a disposal of land by a local authority is in part a disposal to which this Schedule applies, the provisions of this Schedule apply to that part as to a separate disposal.
- (4) In this paragraph “private sector landlord” means a person other than an authority or body within section 80 (the landlord condition for secure tenancies).

*Application for Secretary of State’s consent*

- 2 (1) The Secretary of State shall not entertain an application for his consent to a disposal to which this Schedule applies unless the authority certify either—
  - (a) that the requirements of paragraph 3 as to consultation have been complied with, or
  - (b) that the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the dwelling-house in question before the disposal;
 and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with that paragraph.
- (2) Where the certificate is in the latter form, the Secretary of State shall not determine the application until the authority certify as regards the tenants nor originally consulted—
  - (a) that they have vacated the dwelling-house in question, or
  - (b) that the requirements of paragraph 3 as to consultation have been complied with;
 and a certificate under sub-paragraph (b) shall be accompanied by a copy of the notices given by the authority in accordance with paragraph 3.
- (3) References in this Schedule to the Secretary of State’s consent to a disposal are to the consent required by section 32 or 43 (general requirement of consent for disposal of houses or land held for housing purposes).

*Requirements as to consultation*

- 3 (1) The requirements as to consultation referred to above are as follows.
- (2) The authority shall serve notice in writing on the tenant informing him of—
  - (a) such details of their proposal as the authority consider appropriate, but including the identity of the person to whom the disposal is to be made,
  - (b) the likely consequences of the disposal for the tenant, and
  - (c) the effect of the provisions of this Schedule and of sections 171A to 171H (preservation of right to buy on disposal to private sector landlord),
 and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (3) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—

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- (a) of any significant changes in their proposal, and
  - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,
- and informing him of the effect of paragraph 5 (consent to be withheld if majority of tenants are opposed).

*Power to require further consultation*

- 4 The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.

*Consent to be withheld if majority of tenants are opposed*

- 5 (1) The Secretary of State shall not give his consent if it appears to him that a majority of the tenants of the dwelling-houses to which the application relates do not wish the disposal to proceed; but this does not affect his general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.
- (2) In making his decision the Secretary of State may have regard to any information available to him; and the local authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.

VALID FROM 22/09/2008

*f<sup>F683</sup> Guidance*

**Textual Amendments**

**F683** Sch. 3A para. 5A and preceding cross-heading inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. **294(4)**, 325(2) (with s. 294(5)(6))

- 5A (1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.
- (2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.
- (3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.
- (4) The appropriate person may revoke guidance given under this paragraph.
- (5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.
- (6) In this paragraph “the appropriate person” means—

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| <ul style="list-style-type: none"> <li>(a) in relation to England, the Secretary of State, and</li> <li>(b) in relation to Wales, the Welsh Ministers.]</li> </ul> |
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*Protection of purchasers*

- 6 The Secretary of State’s consent to a disposal is not invalidated by a failure on his part or that of the local authority to comply with the requirements of this Schedule.]

SCHEDULE 4

Sections 119 and 129.

QUALIFYING PERIOD FOR RIGHT TO BUY AND DISCOUNT

*Introductory*

- 1 The period to be taken into account—
- (a) for the purposes of section 119 (qualification for right to buy), and
  - (b) for the purposes of section 129 (discount).
- is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule.

*Periods occupying accommodation subject to public sector tenancy*

- 2 A period qualifies under this paragraph if it is a period during which, before the relevant time—
- (a) the secure tenant, or
  - (b) his spouse (if they are living together at the relevant time), or
  - (c) a deceased spouse of his (if they were living together at the time of the death),
- was a public sector tenant or was the spouse of a public sector tenant and occupied as his only or principal home the dwelling-house of which the spouse was such a tenant.
- 3 For the purposes of paragraph 2 a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as having been the public sector tenant under that tenancy.
- 4 (1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (the “new tenant”) became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).
- (2) A period during which the new tenant, since reaching the age of 16, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—
- (a) the period at the end of which he became the public sector tenant, or
  - (b) an earlier period ending two years or less before the period mentioned in paragraph (a) or before another period within this paragraph,



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shall be treated for the purposes of paragraph 2 as a period during which he was a public sector tenant.

- (3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under section 186(2) (members of a person's family: relationships other than those of the whole blood).

*Periods occupying forces accommodation*

5 A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the secure tenant, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

occupied accommodation provided for him as a member of the regular armed forces of the Crown or was the spouse of a person occupying accommodation so provided and also occupied that accommodation.

VALID FROM 17/08/1992

*[<sup>F684</sup> Periods during which right to buy is preserved]*

**Textual Amendments**

**F684** Sch. 4 para. 5A and cross heading inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\)](#), [Sch. 5 Pt. II para. 40\(2\)](#); by [S.I. 1992/1753, art.2\(2\)](#) the insertion comes into force on 17.8.1992 (subject to a restriction in Sch. 1 para.5 of that S.I.)

<sup>F685</sup>5A A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the secure tenant, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

was a qualifying person for the purposes of the preserved right to buy or was the spouse of such a person and occupied the qualifying dwelling-house as his only or principal home.

**Textual Amendments**

**F685** Sch. 4 para. 5A and cross heading inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\)](#), [Sch. 5 Pt. II para. 40\(2\)](#); by [S.I. 1992/1753, art. 2\(2\)](#) the insertion comes into force on 17.8.1992 (subject to a restriction in Sch. 1 para. 5 of that S.I.)

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

**C162** Sch. 4 para. 5A(a) modified (17.8.1992) by S.I. 1992/1709, reg. 2(a)

*Meaning of “public sector tenant”*

- 6 (1) In this Schedule a “public sector tenant” means a tenant under a public sector tenancy.
- (2) For the purposes of this Schedule, a tenancy, other than a long tenancy, under which a dwelling-house was let as a separate dwelling was a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant condition were satisfied.
- (3) The provisions of this Schedule apply in relation to a licence to occupy a dwelling-house (whether or not granted for consideration) as they apply in relation to a tenancy.
- (4) Sub-paragraph (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

*The landlord condition*

- 7 (1) The landlord condition is, subject to <sup>F686</sup>paragraph 7A and to] any order under paragraph 8, that the interest of the landlord belonged to, or to a predecessor of—
- a local authority,
  - a new town corporation,
  - <sup>F687</sup>a housing action trust]
  - the Development Board for Rural Wales,
  - an urban development corporation,
  - the <sup>F688</sup>Corporation],
  - a registered housing association which is not a co-operative housing association,
  - ..... <sup>F689</sup>,
- or to, or to a predecessor of, an authority or other body falling within sub-paragraph (2) or (3) (corresponding authorities and bodies in Scotland and Northern Ireland),
- (2) The corresponding authorities and bodies in Scotland are—
- a regional, islands or district council,
  - a joint board or joint committee of such a council,
  - the common good of such a council or a trust under its control,
  - a development corporation established by an order made or having effect as if made under the <sup>M106</sup>New Towns (Scotland) Act 1968,
  - <sup>F690</sup>the Scottish Special Housing Association]
  - <sup>F690</sup>Scottish Homes],

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a housing association which falls within <sup>F691</sup>section 61(2)(a)(vi) of the Housing (Scotland) Act 1987] but is not a registered society within the meaning of section <sup>F691</sup>45] of that Act, and  
<sup>F692</sup>a housing co-operative within the meaning of section <sup>F693</sup>22 of the said Act of 1987]].

- (3) The corresponding authorities and bodies in Northern Ireland are—
- a district council within the meaning of the <sup>M107</sup>Local Government Act (Northern Ireland) 1972,
  - the Northern Ireland Housing Executive, and
  - a registered housing association within the meaning of Chapter II of Part II of the <sup>M108</sup>Housing (Northern Ireland) Order 1983.

#### Textual Amendments

- F686** Words inserted (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\), ss. 24\(2\), 57\(2\), Sch. 5 Pt. II para. 40\(3\)\(a\)](#)
- F687** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\) s. 83\(7\)](#)
- F688** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. II para. 106](#)
- F689** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 24\(2\)\(3\), Sch. 5 Pt. II para. 40\(3\)\(a\), Sch. 12 Pt. I](#)
- F690** In Sch. 4 para. 7(2) for the reference to the Scottish Special Housing Association there is substituted a reference to Scottish Homes by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), ss. 1, 3\(3\), Sch. 2 para. 1](#)
- F691** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 30\(4\)\(a\)](#)(which by s. 340(3) is expressed to extend to Scotland only) it is provided that in para. 7(2) in the definition of “housing association”, for “paragraph (e) of section 10(2) of the Tenants' Rights, Etc. (Scotland) Act 1980” and “11” there are substituted (S.) “section 61(2)(a)(vi) of the Housing (Scotland) Act 1987” and “45” respectively
- F692** Words repealed (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 61\), ss. 24\(2\), 57\(2\), Sch. 5 Pt. II para. 40\(3\)\(b\)](#)
- F693** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 30\(4\)\(b\)](#) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that in para. 7(2) in the definition of 'housing co-operative' for '5 of the Housing Rents and Subsidies (Scotland) Act 1975' there is substituted (S.) '22 of the said Act of 1987'

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

- C163** [Sch. 4 para. 7\(1\)](#) explained by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), s. 5\(1\), Sch. 3 para. 5\(3\)](#)  
[Sch. 4 para. 7\(1\)](#) modified (17.8.1992) by [S.I. 1992/1709, reg. 2\(b\)](#)
- C164** In [Sch. 4 para. 7\(2\)](#) for the reference to the Scottish Special Housing Association there is substituted a reference to Scottish Homes by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), ss. 1, 3\(3\), Sch. 2 para. 1](#)

#### Marginal Citations

- M106** 1968 c. 16.  
**M107** 1972 c. 9 (N.I.).  
**M108** S.I. 1983/1118 (N.I. 15).

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VALID FROM 17/08/1992

- [<sup>F694</sup>7A(1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—
- (a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or
  - (b) in Scotland, by an islands or district council,
- if the interest of the landlord belonged to the housing co-operative.
- (2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—
- (a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and
  - (b) as regards Scotland mean an agreement made under section 5 of the Housing Rents and Subsidies (Scotland) Act 1975 and a housing co-operative within the meaning of that section.]

#### Textual Amendments

**F694** Sch. 4 para. 7A inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 40(4)**; S.I. 1992/1753, **art.2(2)** (subject to a restriction in [Sch. para. 5](#))

VALID FROM 01/12/2008

- [<sup>F695</sup>7B The landlord condition shall be treated as having been satisfied in the case of a dwelling-house let under a tenancy falling within section 80(2A) to (2E) at any time if, at that time, the interest of the landlord belonged to—
- (a) the Homes and Communities Agency, or
  - (b) the Welsh Ministers.]

#### Textual Amendments

**F695** Sch. 4 para. 7B inserted (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 4, **Sch. 1 para. 31(3)** (with [Sch. 2](#)); S.I. 2008/3068, arts. 1(2), **2(1)(b)** (with arts. 6-13)

- 8 (1) The landlord condition shall also be treated as having been satisfied, in such circumstances as may be prescribed for the purposes of this paragraph by order of the Secretary of State, if the interest of the landlord belonged to a person who is so prescribed.
- (2) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### *The tenant condition*

- 9 The tenant condition is that the tenant was an individual and occupied the dwelling-house as his only or principal home; or, where the tenancy was a joint tenancy, that each of the joint tenants was an individual and at least one of them occupied the dwelling-house as his only or principal home.

VALID FROM 30/06/2004

[<sup>F696</sup>9A The tenant condition is not met during any period when a tenancy is a demoted tenancy by virtue of section 20B of the Housing Act 1988 or section 143A of the Housing Act 1996.]

#### **Textual Amendments**

**F696** Sch. 4 para. 9A inserted (30.6.2004 for E. and 30.4.2005 for W.) by Anti-social Behaviour Act 2003 (c.38), ss. 14, 93(1), Sch. 1 para. 2(5); S.I. 2004/1502, art. 2 (subject to Sch.); S.I. 2005/1225, art. 2(b)

### *Application to certain housing association tenancies*

- 10 For the purpose of determining whether at any time a tenant of a housing association was a public sector tenant and his tenancy a public sector tenancy, the association shall be deemed to have been registered at that time, under the <sup>M109</sup>Housing Associations Act 1985 or the corresponding Northern Ireland legislation, if it was so registered at any later time.

#### **Marginal Citations**

**M109** 1985 c. 69.

## 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—

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any enactment mentioned in paragraph 2 of Schedule 1 to the Housing Associations Act 1985 (grants under enactments superseded by the<sup>M110</sup>Housing Act 1974),  
 section 31 of the<sup>M111</sup>Housing Act 1974 (management grants),  
 section 41 of the<sup>M112</sup>Housing Associations Act 1985 (housing association grants),  
 section 54 of that Act (revenue deficit grants),  
 section 55 of that Act (hostel deficit grants), . . .<sup>F697</sup>  
 section 58(2) of that Act (grants by local authorities).  
 [<sup>F698</sup>section 50 of the Housing Act 1988 (housing association grants), or section 51 of that Act (revenue deficit grants).]

#### Textual Amendments

**F697** Word repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**

**F698** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 66**

#### Marginal Citations

**M110** 1974 c. 44.

**M111** 1974 c. 44.

**M112** 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
  - (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,
    - [<sup>F699</sup>a housing action trust]
    - the Development Board for Rural Wales,
    - an urban development corporation, or
    - the governors of an aided school.

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(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**

**F699** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 83(6)(d)**

*Certain dwelling-houses for the disabled*

6 ..... **F700**

**Textual Amendments**

**F700** [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 ..... **F701**

**Textual Amendments**

**F701** [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 <sup>M113</sup>Mental Health Act 1983

**Marginal Citations**

**M113** 1983 c. 20.

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*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.
- [<sup>F702</sup>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).
- (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**

**F702** 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



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- (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.
- (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,

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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).
- (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.

[<sup>F703</sup>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.

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- (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.

#### Textual Amendments

**F703** 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.

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- (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.

VALID FROM 22/09/2008

- [<sup>F704</sup>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—

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- (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.
- (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

**F703** Sch. 5 paras. 13-16 and preceding cross-heading inserted (18.1.2004) by [Housing Act 2004 \(c. 34\)](#), ss. 182, 270(3)(a)

**F704** 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

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(b) in any other case, the last known address of that person.

VALID FROM 18/01/2004

SCHEDULE 5A

Section 138A

INITIAL DEMOLITION NOTICES

SCHEDULE 6

Sections 139 and 151.

CONVEYANCE OF FREEHOLD AND GRANT OF LEASE IN PURSUANCE OF RIGHT TO BUY

**PART I**

COMMON PROVISIONS

*Rights to be conveyed or granted—general*

- 1 The conveyance or grant shall not exclude or restrict the general words implied under section 62 of the <sup>M114</sup>Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

**Marginal Citations**

M114 1925 c. 20.

*Rights of support, passage of water, etc.*

- 2 (1) The conveyance or grant shall, by virtue of this Schedule, have the effect stated in sub-paragraph (2) as regards—
- (a) rights of support for a building or part of a building;
  - (b) rights to the access of light and air to a building or part of a building;
  - (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
  - (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions.
- (2) The effect is—

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- (a) to grant with the dwelling-house all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as nearly as may be the same rights as at the relevant time were available to him under or by virtue of the secure tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made on the severance of the dwelling-house from other property then comprised in the same tenancy; and
  - (b) to make the dwelling-house subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the secure tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made as mentioned in paragraph (a).
- (3) This paragraph—
- (a) does not restrict any wider operation which the conveyance or grant may have apart from this paragraph; but
  - (b) is subject to any provision to the contrary that may be included in the conveyance or grant with the consent of the tenant.

#### *Rights of way*

- 3 The conveyance or grant shall include—
- (a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over land not comprised in the dwelling-house, so far as the landlord is capable of granting them, being rights of way that are necessary for the reasonable enjoyment of the dwelling-house; and
  - (b) such provisions (if any) as the landlord may require for the purpose of making the dwelling-house subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

#### *Covenants and conditions*

VALID FROM 01/07/1995

[<sup>F707</sup>4A he conveyance or grant shall be expressed to be made by the landlord with full title guarantee (thereby implying the covenants for title specified in Part I of the Law of Property (Miscellaneous Provisions) Act 1994).]

#### **Textual Amendments**

**F707** Sch. 6 Pt. I para. 4A inserted (1.7.1995) by 1994 c. 36, s. 21(1), **Sch. 1 para. 9(2)** (with s. 20); S.I. 1995/1317, **art. 2**

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4 The conveyance or grant shall include such provisions (if any) as the landlord may require to secure that the tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants (that is to say, covenants or agreements restrictive of the use of any land or premises) which affect the dwelling-house otherwise than by virtue of the secure tenancy or an agreement collateral to it and are enforceable for the benefit of other property.

5 Subject to paragraph 6, and to Parts II and III of this Schedule, the conveyance or grant may include such covenants and conditions as are reasonable in the circumstances.

*No charge to be made for landlord's consent or approval*

6 A provision of the conveyance or lease is void in so far as it purports to enable the landlord to charge the tenant a sum for or in connection with the giving of a consent or approval.

*Meaning of "incumbrances" and "tenant's incumbrance"*

7 In this Schedule—

“incumbrances” includes personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on the land or interest; and

“tenant's incumbrance” means—

- (a) an incumbrance on the secure tenancy which is also an incumbrance on the reversion, and
- (b) an interest derived, directly or indirectly, out of the secure tenancy.

## PART II

### CONVEYANCE OF FREEHOLD

#### *General*

8 The conveyance shall not exclude or restrict the all estate clause implied under section 63 of the <sup>M115</sup>Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

#### **Marginal Citations**

M115 1925 c. 20

9 (1) The conveyance shall be of an estate in fee simple absolute, subject to—

- (a) tenant's incumbrances,
- (b) burdens (other than burdens created by the conveyance) in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourses;



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but otherwise free from incumbrances.

- (2) Nothing in sub-paragraph (1) shall be taken as affecting the operation of paragraph 5 of this Schedule (reasonable covenants and conditions).

### *Covenants*

- 10 The conveyance shall be expressed to be made by the landlord as beneficial owner (thereby implying the covenant set out in Part I of Schedule 2 to the Law of Property Act 1925 (covenant for title)).

## **PART III**

### **LEASES**

#### *General*

- 11 A lease shall be for the appropriate term defined in paragraph 12 (but subject to sub-paragraph (3) of that paragraph) and at a rent not exceeding £10 per annum, and the following provisions have effect with respect to the other terms of the lease.

#### *The appropriate term*

- 12 (1) If at the time the grant is made the landlord's interest in the dwelling-house is not less than a lease for a term of which more than 125 years and five days are unexpired, the appropriate term is a term of not less than 125 years.
- (2) In any other case the appropriate term is a term expiring five days before the term of the landlord's lease of the dwelling-house (or, as the case may require, five days before the first date on which the term of any lease under which the landlord holds any part of the dwelling-house) is to expire.
- (3) If the dwelling-house is a flat contained in a building, which also contains one or more other flats and the landlord has, since 8th August 1980, granted a lease of one or more of them for the appropriate term, the lease of the dwelling-house may be for a term expiring at the end of the term for which the other lease (or one of the other leases) was granted.

#### *Common use of premises and facilities*

- 13 Where the dwelling house is a flat and the tenant enjoyed, during the secure tenancy, the use in common with others of any premises, facilities or services, the lease shall include rights to the like enjoyment, so far as the landlord is capable of granting them, unless otherwise agreed between the landlord and the tenant.

#### *Covenants by the landlord*

- 14 (1) This paragraph applies where the dwelling-house is a flat.
- (2) There are implied covenants by the landlord—

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- (a) to keep in repair the structure and exterior of the dwelling-house and of the building in which it is situated (including drains, gutters and external pipes) and to make good any defect affecting that structure;
- (b) to keep in repair any other property over or in respect of which the tenant has rights by virtue of this Schedule;
- (c) to ensure, so far as practicable, that services which are to be provided by the landlord and to which the tenant is entitled (whether by himself or in common with others) are maintained at a reasonable level and to keep in repair any installation connected with the provision of those services;

F708

- .....
- (3) [F709 There is an implied covenant] that the landlord shall rebuild or reinstate the dwelling-house and the building in which it is situated in the case of destruction or damage by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.

[F710(3A) Sub-paragraphs (2) and (3) have effect subject to paragraph 15(3) (certain obligations not to be imposed, where landlord's title is leasehold, by reason of provisions of superior lease).]

- (4) The county court may, by order made with the consent of the parties, authorise the inclusion in the lease or in an agreement collateral to it of provisions excluding or modifying the obligations of the landlord under the covenants implied by this paragraph, if it appears to the court that it is reasonable to do so.

#### Textual Amendments

**F708** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), [Sch. 5 Pt. II para. 41\(2\)](#), [Sch. 12](#). Pt. I

**F709** By [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 41\(3\)](#) it is provided that in [Sch. 6 para. 14\(3\)](#), for the words from the beginning to "requirement" there is inserted "There is an implied covenant"

**F710** [Sch. 6 para. 14\(3A\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 41\(4\)](#)

- 15 (1) This paragraph applies where the landlord's interest in the dwelling-house is leasehold.
- (2) There is implied a covenant by the landlord to pay the rent reserved by the landlord's lease and, except in so far as they fall to be discharged by the tenant, to discharge its obligations under the covenants contained in that lease.
- (3) A covenant implied by virtue of paragraph 14 (implied covenants where dwelling-house is a flat) shall not impose on the landlord an obligation which the landlord is not entitled to discharge under the provisions of the landlord's lease or a superior lease.
- (4) Where the landlord's lease or a superior lease, or an agreement collateral to the landlord's lease or a superior lease, contains a covenant by a person imposing obligations which, but for sub-paragraph (3), would be imposed by a covenant implied by virtue of paragraph 14, there is implied a covenant by the landlord to use its best endeavours to secure that that person's obligations under the first-mentioned covenant are discharged.

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### *Covenant by tenant*

- 16 Unless otherwise agreed between the landlord and the tenant, there is implied a covenant by the tenant—
- (a) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
  - (b) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

*[<sup>F711</sup> Service charges and other contributions payable by the tenant]*

#### **Textual Amendments**

**F711** Sch. 6 Pt. III paras. 16A–D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(4)

<sup>F712</sup>16(A) The lease may require the tenant to bear a reasonable part of the costs incurred by the landlord—

- (a) in discharging or insuring against the obligations imposed by the covenants implied by virtue of paragraph 14(2) (repairs, making good structural defects, provision of services, etc.), or
- (b) in insuring against the obligations imposed by the covenant implied by virtue of paragraph 14(3) (rebuilding or reinstatement, etc.),

and to the extent that by virtue of paragraph 15(3) (effect of provision of superior lease) such obligations are not imposed on the landlord, to bear a reasonable part of the costs incurred by the landlord in contributing to costs incurred by a superior landlord or other person in discharging or, as the case may be, insuring against obligations to the like effect.

- (2) Where the lease requires the tenant to contribute to the costs of insurance, it shall provide that the tenant is entitled to inspect the relevant policy at such reasonable times as may be specified in the lease.
- (3) Where the landlord does not insure against the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.
- (4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.
- (5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).]

#### **Textual Amendments**

**F712** Sch. 6 Pt. III paras. 16A–D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(4)

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- [<sup>F713</sup>16B] Where a lease of a flat requires the tenant to pay service charges in respect of repairs (including works for the making good of structural defects), his liability in respect of costs incurred in the initial period of the lease is restricted as follows.
- (2) He is not required to pay in respect of works itemised in the estimates contained in the landlord's notice under section 125 any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
  - (3) He is not required to pay in respect of works not so itemised at a rate exceeding—
    - (a) as regards parts of the initial period falling within the reference period for the purposes of the estimates contained in the landlord's notice under section 125, the estimated annual average amount shown in the estimates;
    - (b) as regards parts of the initial period not falling within that reference period, the average rate produced by averaging over the reference period all works for which estimates are contained in the notice;
 together, in each case, with an inflation allowance.
  - (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
    - (a) if the lease includes provision for service charges to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;
    - (b) if the lease provides for service charges to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease; and
    - (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.]

#### Textual Amendments

**F713** Sch. 6 Pt. III paras. 16A–D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 4(4)

- [<sup>F714</sup>16C] Where a lease of a flat requires the tenant to pay improvement contributions, his liability in respect of costs incurred in the initial period of the lease is restricted as follows.
- (2) He is not required to make any payment in respect of works for which no estimate was given in the landlord's notice under section 125.
  - (3) He is not required to pay in respect of works for which an estimate was given in that notice any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
  - (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
    - (a) if the lease includes provision for improvement contributions to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;

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- (b) if the lease provides for improvement contributions to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease; and
- (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.]

#### Textual Amendments

**F714** Sch. 6 Pt. III paras. 16A–D inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)

[<sup>F715</sup>16D) The Secretary of State may by order prescribe—

- (a) the method by which inflation allowances for the purposes of paragraph 16B or 16C are to be calculated by reference to published statistics; and
- (b) the information to be given to a tenant when he is asked to pay a service charge or improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.

(2) An order—

- (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
- (b) may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks appropriate; and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F715** Sch. 6 Pt. III paras. 16A–D inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)

VALID FROM 11/10/1993

[<sup>F716</sup>16E) Where a lease of a flat granted in pursuance of the right to acquire on rent to mortgage terms requires the tenant to pay—

- (a) service charges in respect of repairs (including works for the making good of structural defects), or
- (b) improvement contributions,

his liability in respect of costs incurred at any time before the final payment is made is restricted as follows.

(2) He is not required to pay any more than the amount determined by the formula—

$$M = P \times \frac{100 - S}{100}$$

where—

M = the maximum amount which he is required to pay;

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P = the amount which, but for this paragraph, he would be required to pay;  
 S = the landlord's share at the time expressed as a percentage.]

#### Textual Amendments

**F716** Sch. 6 Pt. III para. 16E inserted (11.10.1993) by 1993 c. 28, s. 116(2); S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### *Avoidance of certain provisions*

- 17 (1) A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to prohibit or restrict the assignment of the lease or the subletting, wholly or in part, of the dwelling-house.
- (2) Sub-paragraph (1) has effect subject to section 157 (restriction on disposal of dwelling-houses in National Parks, etc.).
- [<sup>F717</sup>18 Where the dwelling-house is a flat, a provision of the lease or of an agreement collateral to it is void in so far as it purports—
- (a) to authorise the recovery of such a charge as is mentioned in paragraph 16A (contributions in respect of repairs, etc.) otherwise than in accordance with that paragraph and paragraph 16B (restrictions in initial period of lease); or
  - (b) to authorise the recovery of any charge in respect of costs incurred by the landlord—
    - (i) in discharging the obligations imposed by the covenant implied by paragraph 14(3) (rebuilding or reinstatement, &c.), or those obligations as modified in accordance with paragraph 14(4), or
    - (ii) in contributing to costs incurred by a superior landlord or other person in discharging obligations to the like effect; or
  - (c) to authorise the recovery of an improvement contribution otherwise than in accordance with paragraph 16C (restrictions in initial period of lease).]

#### Textual Amendments

**F717** Sch. 6 para. 18 substituted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 4(4)(6)

- 19 A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to authorise a forfeiture, or to impose on the tenant a penalty or disability, in the event of his enforcing or relying on the preceding provisions of this Schedule.

## PART IV

### CHARGES

#### *Grant of lease*

- 20 A charge (however created or arising) on the interest of the landlord which is not a tenant's incumbrance does not affect a lease granted in pursuance of the right to buy.

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### Conveyance of freehold

- 21 (1) This paragraph applies to a charge (however created or arising) on the freehold where the freehold is conveyed in pursuance of the right to buy.
- (2) If the charge is not a tenant's incumbrance and is not a rentcharge the conveyance is effective to release the freehold from the charge; but the release does not affect the personal liability of the landlord or any other person in respect of any obligation which the charge was created to secure.
- (3) If the charge is a rentcharge the conveyance shall be made subject to the charge; but if the rentcharge also affects other land—
- (a) the conveyance shall contain a covenant by the landlord to indemnify the tenant and his successors in title in respect of any liability arising under the rentcharge, and
  - (b) if the rent charge is of a kind which may be redeemed under the <sup>M116</sup>Rentcharges Act 1977 the landlord shall immediately after the conveyance take such steps as are necessary redeem the rentcharge so far as it affects land owned by him.
- (4) In this paragraph “rentcharge” has the same meaning as in the Rentcharges Act 1977; and—
- (a) for the purposes of sub-paragraph (3) land is owned by a person if he is the owner of it within the meaning of section 13(1) of that Act, and
  - (b) for the purposes of that sub-paragraph and that Act land which has been conveyed by the landlord in pursuance of the right to buy but subject to the rentcharge shall be treated as if it had not been so conveyed but had continued to be owned by him.

#### Marginal Citations

M116 1977 c. 30.

VALID FROM 11/10/1993

## [<sup>F718</sup>SCHEDULE 6A

### REDEMPTION OF LANDLORD'S SHARE

#### Textual Amendments

**F718** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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*F719* **Obligation to redeem landlord's share in certain circumstances**

**Textual Amendments**

**F719** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F720** 1 (1) The conveyance or grant shall contain a covenant binding on the secure tenant and his successors in title to make to the landlord, immediately after—
- (a) the making of a relevant disposal which is not an excluded disposal, or
  - (b) the expiry of the period of one year beginning with a relevant death,
- (whichever first occurs), a final payment, that is to say, a payment of the amount required to redeem the landlord's share.
- (2) A disposal is an excluded disposal for the purposes of this paragraph if—
- (a) it is a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is, or is the spouse of, the person or one of the persons by whom it is made;
  - (b) it is a vesting in a person taking under a will or intestacy; or
  - (c) it is a disposal in pursuance of an order under [<sup>F721</sup>section 23A or 24] of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate),
- and (in any case) an interest to which this paragraph applies subsists immediately after the disposal.
- (3) In this paragraph “relevant death” means the death of a person who immediately before his death was the person or, as the case may be, the last remaining person entitled to an interest to which this paragraph applies.
- (4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
  - (b) a qualifying person.

**Textual Amendments**

**F720** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F721** Words in Sch. 6A para. 1(2)(c) substituted (prosp.)  
 by 1996 c. 27, ss. 66(1), 67(3), Sch. 8 Pt. 1 para. 34 (with Sch. 9 para. 5)



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### *F722* Right to redeem landlord's share at any time

#### **Textual Amendments**

**F722** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F723**<sup>2</sup> (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title to make a final payment at any time.
- (2) The right shall be exercisable by written notice served on the landlord claiming to make a final payment.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the final payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make a final payment shall be deemed to have been withdrawn.

#### **Textual Amendments**

**F723** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### *F724* Value of landlord's share and amount of final payment

#### **Textual Amendments**

**F724** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F725**<sup>3</sup> The value of the landlord's share shall be determined by the formula -
- and the amount required to redeem that share shall be determined by the formula—

#### **Textual Amendments**

**F725** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

### *F726* Final discount

#### **Textual Amendments**

**F726** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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- <sup>F727</sup>4 (1) Where a final payment is made by, or by two or more persons who include—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
  - (b) a qualifying person,
- the person or persons making the payment are entitled, subject to the following provisions of this paragraph and paragraph 5, to a final discount equal to 20 per cent. of the value of the landlord's share.
- (2) Sub-paragraph (1) shall not apply if the final payment is made after the end of the protection period, that is to say, the period of two years beginning with the time when there ceases to be an interest to which this sub-paragraph applies.
- (3) A beneficial interest in the dwelling-house is an interest to which sub-paragraph (2) applies if the person entitled to it is—
- (a) the secure tenant or, as the case may be, one of the secure tenants, or
  - (b) a qualifying spouse.
- (4) The Secretary of State may by order made with the consent of the Treasury provide that the percentage discount shall be such percentage as may be specified in the order.
- (5) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas,
  - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State necessary or expedient, and
  - (c) shall be made by statutory instrument and shall not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

**F727** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### <sup>F728</sup>Restrictions on and deductions from final discount

#### Textual Amendments

**F728** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- <sup>F729</sup>5 (1) Except where the Secretary of State so determines, a final discount shall not reduce the total purchase price, that is to say, the aggregate of the initial payment, the final payment and any interim payments, below the amount which would be applicable under section 131(1) in respect of the dwelling-house if the relevant time were the time when the value of the dwelling-house is agreed or determined.
- (2) The total discount, that is to say, the aggregate of the initial discount, the final discount and any interim discounts, shall not in any case reduce the total purchase price by more than the sum prescribed for the purposes of section 131(2) at the time when the value of the dwelling-house is agreed or determined.

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- (3) If a final payment is made after the end of the first twelve months of the protection period, there shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to 50 per cent. of that discount.
- (4) There shall be deducted from any final discount given by paragraph 4 and the preceding provisions of this paragraph an amount equal to any previous discount qualifying or, the aggregate of any previous discounts qualifying, under the provisions of section 130.
- (5) A determination under this paragraph may make different provision for different cases or descriptions of case, including different provision for different areas.

#### Textual Amendments

**F729** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### *<sup>F730</sup>Right to make interim payment at any time*

#### Textual Amendments

**F730** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- <sup>F731</sup>6 (1) The conveyance or grant shall include provision entitling the secure tenant and his successors in title at any time to make to the landlord an interim payment, that is to say, a payment which—
- (a) is less than the amount required to redeem the landlord's share; but
  - (b) is not less than 10 per cent. of the value of the dwelling-house (agreed or determined in accordance with paragraph 8).
- (2) The right shall be exercisable by written notice served on the landlord, claiming to make an interim payment and stating the amount of the interim payment proposed to be made.
- (3) The notice may be withdrawn at any time by written notice served on the landlord.
- (4) If the interim payment is not tendered to the landlord before the end of the period of three months beginning with the time when the value of the dwelling-house is agreed or determined in accordance with paragraph 8, the notice claiming to make an interim payment shall be deemed to have been withdrawn.

#### Textual Amendments

**F731** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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*F732 Landlord's reduced share and interim discount*

**Textual Amendments**

**F732** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F7337** The landlord's share after the making of an interim payment shall be determined by the formula -
- the amount of the interim discount shall be determined by the formula—
- and the amount of any previous discount which will be recovered by virtue of the making of an interim payment shall be determined by the formula—

**Textual Amendments**

**F733** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F734 Value of dwelling-house*

**Textual Amendments**

**F734** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

- F7358** (1) For the purposes of the final payment or any interim payment, the value of a dwelling-house is the amount which for those purposes—
- (a) is agreed at any time between the parties, or
  - (b) in default of such agreement, is determined at any time by an independent valuer,
- as the amount which, in accordance with this paragraph, is to be taken as its value at that time.
- (2) Subject to sub-paragraph (6), that value shall be taken to be the price which the interest of the secure tenant in the dwelling-house would realise if sold on the open market by a willing vendor—
- (a) on the assumption that the liabilities mentioned in sub-paragraph (3) would be discharged by the vendor, and
  - (b) disregarding the matters specified in sub-paragraph (4).
- (3) The liabilities referred to in sub-paragraph (2)(a) are—
- (a) any mortgages of the interest of the secure tenant,
  - (b) the liability under the covenant required by paragraph 1, and
  - (c) any liability under the covenant required by section 155(3) (repayment of discount on early disposal).
- (4) The matters to be disregarded in pursuance of sub-paragraph (2)(b) are—
- (a) any interests or rights created over the dwelling-house by the secure tenant,

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- (b) any improvements made by the secure tenant or any of the persons mentioned in section 127(4) (certain predecessors as secure tenant), and
  - (c) any failure by the secure tenant or any of those persons—
    - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
    - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.
- (5) Sub-paragraph (6) applies where, at the time when the value of the dwelling-house is agreed or determined, the dwelling-house—
- (a) has been destroyed or damaged by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure, and
  - (b) has not been fully rebuilt or reinstated.
- (6) That value shall be taken to include the value of such of the following as are applicable, namely—
- (a) any sums paid or falling to be paid to the secure tenant under a relevant policy in so far as they exceed the cost of any rebuilding or reinstatement which has been carried out;
  - (b) any rights of the secure tenant under the covenant implied by paragraph 14(3) of Schedule 6 (covenant to rebuild or reinstate); and
  - (c) any rights of the secure tenant under the covenant implied by paragraph 15(4) of that Schedule (covenant to use best endeavours to secure rebuilding or reinstatement).
- (7) In sub-paragraph (6) “relevant policy” means a policy insuring the secure tenant against the risk of fire, tempest or flood or any other risk against which it is normal practice to insure.
- (8) References in this paragraph to the secure tenant include references to his successors in title.

#### Textual Amendments

**F735** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

#### <sup>F736</sup>Costs of independent valuation

#### Textual Amendments

**F736** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

<sup>F737</sup>9

The conveyance or grant shall include provision requiring any sums falling to be paid to an independent valuer (whether by way of fees or expenses or otherwise) to be paid by the secure tenant or his successors in title.

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#### Textual Amendments

**F737** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F738* No charges to be made by landlord

#### Textual Amendments

**F738** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F739** 10 A provision of the conveyance or grant is void in so far as it purports to enable the landlord to charge the tenant or his successors in title a sum in respect of or in connection with the making of a final or interim payment.

#### Textual Amendments

**F739** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F740* Other covenants and provisions

#### Textual Amendments

**F740** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F741** 11 Subject to the provisions of this Schedule, the conveyance or grant may include such covenants and provisions as are reasonable in the circumstances.

#### Textual Amendments

**F741** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

*F742* Interpretation]

#### Textual Amendments

**F742** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

**F743** 12 (1) In this Schedule—

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“independent valuer” means an independent valuer appointed in pursuance of provisions in that behalf contained in the conveyance or grant;

“protection period” has the meaning given by paragraph 4(2);

“qualifying person” means a qualifying spouse or a qualifying resident.

- (2) A person is a qualifying spouse for the purposes of this Schedule if—
- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
  - (b) he is occupying the dwelling-house as his only or principal home immediately before that time; and
  - (c) he is the spouse or surviving spouse of the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or is the surviving spouse of a person who immediately before his death was entitled to such an interest;
- and any reference in this paragraph to the spouse or surviving spouse of a person includes a reference to a former spouse or surviving former spouse of that person.
- (3) A person is a qualifying resident for the purposes of this Schedule if—
- (a) he is entitled to a beneficial interest in the dwelling-house immediately after the time when there ceases to be an interest to which this paragraph applies;
  - (b) he is occupying the dwelling-house as his only or principal home immediately before that time;
  - (c) he has resided throughout the period of twelve months ending with that time—
    - (i) with the person who immediately before that time was entitled to the interest to which this paragraph applies or, as the case may be, the last remaining such interest, or
    - (ii) with two or more persons in succession each of whom was throughout the period of residence with him entitled to such an interest; and
  - (d) he is not a qualifying spouse.
- (4) A beneficial interest in the dwelling-house is an interest to which this paragraph applies if the person entitled to it is the secure tenant or, as the case may be, one of the secure tenants.
- (5) References in this Schedule to the secure tenant are references to the secure tenant or tenants to whom the conveyance or grant is made and references to the secure tenant or, as the case may be, one of the secure tenants shall be construed accordingly.
- (6) References in this Schedule to the secure tenant’s successors in title do not include references to any person entitled to a legal charge having priority to the mortgage required by section 151B (mortgage for securing redemption of landlord’s share) or any person whose title derives from such a charge.

#### Textual Amendments

**F743** Sch. 6A inserted (11.10.1993) by 1993 c. 28, s. 117(2), Sch. 16; S.I. 1993/2134, arts. 2, 4(b) (with saving in Sch. 1 para. 4(1)).

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## SCHEDULE 7

### MORTGAGE IN PURSUANCE OF RIGHT TO A MORTGAGE

- 1       The deed shall provide for repayment of the amount secured in equal instalments of principal and interest combined.
- 2       (1) The period over which repayment is to be made shall be—
- (a) 25 years, or
- (b) where the mortgagor’s interest in the dwelling-house is leasehold and the term of the lease is less than 25 years, a period equal to the term of the lease, or, at the option of the mortgagor, a shorter period.
- (2) The period mentioned in sub-paragraph (1) may be extended by the mortgagee.
- 3       (1) The Secretary of State may by order—
- (a) vary the preceding provisions of this Schedule, or
- (b) prescribe additional terms to be contained in the deed, but only in relation to deeds executed after the order comes into force.
- (2) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 4       The deed may contain such other provisions as may be—
- (a) agreed between the mortgagor and the mortgagee, or
- (b) determined by the county court to be reasonably required by the mortgagor or the mortgagee.

## SCHEDULE 8

Section 151.

### TERMS OF SHARED OWNERSHIP LEASE

#### *Additional shares*

- 1       (1) The lease shall state the tenant’s initial share of the dwelling-house and shall contain provision enabling the tenant to acquire additional shares in the dwelling-house, which shall be either the prescribed percentage (within the meaning of section 145) or a multiple of that percentage.



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- (2) The right so conferred is exercisable at any time during the term of the lease on the tenant serving written notice on the landlord, stating the additional share he proposes to acquire.
  - (3) Where the tenant claims to exercise the right to acquire an additional share, the landlord shall, as soon as practicable, serve on the tenant a written notice stating—
    - (a) the amount which in the opinion of the landlord should be the amount of the consideration for that share on the assumption that the share is as stated in the tenant's notice, and
    - (b) the effective discount on an acquisition of that share,determined in each case, in accordance with paragraph 3(1).
  - (4) A notice required by this paragraph may be withdrawn at any time by notice in writing served on the landlord.
- 2
- (1) Where the dwelling-house is a house and the landlord owns the freehold, the lease shall provide that, on his acquiring an additional share such that his total share will be 100 per cent., the tenant is entitled to require the freehold to be conveyed either to himself or to such other person as he may direct.
  - (2) The right so conferred is exercisable at any time during the term of the lease on the tenant serving written notice on the landlord.
  - (3) As soon as practicable after the right mentioned in sub-paragraph (1) has become exercisable, the landlord shall serve on the tenant a written notice—
    - (a) informing him of the right, and
    - (b) stating the provisions which, in the opinion of the landlord, should be contained in the conveyance.
  - (4) A conveyance executed in pursuance of that right—
    - (a) shall conform with Parts I and II of Schedule 6 (terms of conveyance in pursuance of right to buy), and
    - (b) shall preserve the effect of the covenant required by section 155 (repayment of discount on early disposal), and
    - (c) where the lease contains any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.), shall preserve the effect of that covenant;and Part IV of Schedule 6 (charges) applies to such a conveyance as it applies to a conveyance of the freehold in pursuance of the right to buy.
  - (5) A notice required by this paragraph may be withdrawn at any time by notice in writing served on the landlord.

#### *Additional contributions*

- 3
- (1) The consideration for an additional share (referred to in this Part as an “additional contribution”) shall be determined by the formula—

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$$C = \frac{S(V - D)}{100}$$

and the effective discount to which the tenant is entitled on the acquisition of an additional share shall be determined by the formula—

$$E = \frac{S \times D}{100}$$

where—

C = the additional contribution,

E = the effective discount,

S = the additional share expressed as a percentage,

V = the value of the dwelling-house (determined in accordance with paragraph 11) at the time when the notice under paragraph 1 is served, and

D = the discount which on the assumptions stated in sub-paragraph (2) below would be applicable under sections 129 to 131 (discount on exercise of right to buy).

(2) The assumptions are that—

- (a) the shared ownership lease had not been granted and the secure tenancy had not come to an end, and
- (b) the tenant was exercising the right to buy and his notice under paragraph 1 was a notice claiming to exercise that right.

#### *Rent*

- 4 (1) The lease shall provide that, for any period for which the tenant's total share is less than 100 per cent., the rent payable under the lease shall be determined by the formula—

$$R = \frac{F(100 - S)}{100}$$

where—

R=the rent payable,

F=the amount determined by the landlord as the rent which would be payable for that period if the shared ownership lease had not been granted and the secure tenancy had not come to an end, but excluding any element attributable to rates or to services provided by the landlord, and

S=the tenant's total share expressed as a percentage.

- (2) In making a determination under sub-paragraph (1) the landlord shall take into account all matters which appear to it to be relevant including, in particular, where comparable dwelling-houses in the locality are let on secure tenancies, the rents payable under those tenancies.

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- (3) The lease shall also provide that, for any such period, if the Secretary of State by order so provides—
- (a) the rent payable under the lease as so determined, or
  - (b) any amount payable by the tenant under the lease which is payable, directly or indirectly, for repairs, maintenance, or insurance,
- shall be adjusted in such manner as may be provided by the order.
- (4) The Secretary of State may by order under sub-paragraph (3) provide for such adjustment as he considers appropriate having regard to the differing responsibilities for repairs, maintenance and insurance of a tenant under a shared ownership lease and a secure tenant.
- (5) An order under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient,
- and shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this paragraph “rates” includes charges [<sup>F744</sup>in respect of any services provided by a water undertaker or sewerage undertaker in the course of the carrying out of its functions].

#### Textual Amendments

**F744** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190(1), 193(1), Sch. 25 para. 74(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

- 5 The lease shall provide that, for any period for which the tenant’s total share is 100 per cent., the rent payable under the lease shall be £10 per annum.

#### *Payment for outstanding share on disposal*

- 6 (1) The lease shall contain a covenant binding on the tenant and his successors in title to pay to the landlord on demand for the outstanding share an amount determined in accordance with sub-paragraph (2) if, at a time when the tenant’s total share is less than 100 per cent., there is—
- (a) a relevant disposal which is not an exempted disposal, or
  - (b) a compulsory disposal.
- (2) The amount payable under the covenant shall be determined by the formula—

$$P = \frac{V(100 - S)}{100}$$

where—

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P = the amount payable under the covenant,  
V = the value at the time of the disposal (determined in accordance with paragraph 11) of the dwelling-house or, in the case of a compulsory disposal of a part of the dwelling-house, of the part disposed of, and  
S = the tenant's total share expressed as a percentage.

- (3) Section 156 (liability to repay discount a charge on the premises) applies in relation to the liability that may arise under the covenant required by this paragraph as it applies in relation to the liability that may arise under the covenant required by section 155 (repayment of discount on early disposal).
- 7 The lease shall provide that, on the discharge of a liability arising under the covenant required by paragraph 6—
- (a) the rent payable under the lease, or
  - (b) in the case of a compulsory disposal of a part of the dwelling-house, the rent payable under the lease so far as relating to that part,
- shall be £10 per annum.
- 8 (1) Where the dwelling-house is a house and the landlord owns the freehold, the lease shall provide that on the discharge of a liability arising under the covenant required by paragraph 6—
- (a) any person in whom the tenant's interest in the dwelling-house is vested, or
  - (b) in the case of a compulsory disposal of a part of the dwelling-house, any person in whom that part is vested,
- is entitled to require the freehold of the dwelling-house, or as the case may be that part of the dwelling-house, to be conveyed either to himself or to such other person as he may direct.
- (2) The right so conferred is exercisable at any time during the term of the lease on the person referred to in sub-paragraph (1)(a) or (b) serving written notice on the landlord.
- (3) As soon as practicable after such a right as is mentioned in sub-paragraph (1) has become exercisable by any person, the landlord shall serve on him a written notice—
- (a) informing him of the right, and
  - (b) stating the provisions which, in the opinion of the landlord, should be contained in the conveyance.
- (4) A conveyance executed in pursuance of such a right—
- (a) shall conform with Parts I and II of Schedule 6 (terms of conveyance in pursuance of right to buy), and
  - (b) where the lease contains any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.), shall preserve the effect of that covenant;
- and Part IV of Schedule 6 (charges) applies to such a conveyance as it applies to a conveyance of the freehold in pursuance of the right to buy.
- (5) A notice required by this paragraph may be withdrawn at any time by notice in writing served on the landlord.

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### *No disposals of part while share outstanding*

- 9 (1) The lease shall contain a covenant binding on the tenant and his successors in title that there will be no relevant disposal of part of the dwelling-house, other than a compulsory disposal, at any time when the tenant's total share is less than 100 per cent.
- (2) A disposal in breach of the covenant required by sub-paragraph (1) is void.

### *Applications of provisions after disposal*

- 10 (1) The lease shall provide that in the event of a relevant disposal which is an exempted disposal by virtue of—  
section 160(1)(a) (a disposal of whole dwelling-house to member of family),  
section 160(1)(b) (vesting on death of tenant), or  
section 160(1)(c) (matrimonial property adjustment or family provision order),  
references to the tenant in the provisions of the lease required by this Schedule or by section 155 (repayment of discount on early disposal) shall include references to the person to whom the disposal is made.
- (2) The lease shall also provide that, in the event of a compulsory disposal of a part of the dwelling-house, references in those provisions to the dwelling-house shall be construed as references to the remaining part of the dwelling-house.

### *Value of dwelling-house or part*

- 11 (1) For the purposes of paragraph 3 (additional contributions) and paragraph 6 (payment for outstanding share on disposal) the value of the dwelling-house, or a part of the dwelling-house, at any time is the amount agreed between the parties or determined by the district valuer as the amount which, in accordance with this paragraph, is to be taken as its value at that time.
- (2) That value shall be taken to be the price which the interest of the tenant in the dwelling-house or part would realise if sold on the open market by a willing vendor—  
(a) on the assumption that the liabilities mentioned in sub-paragraph (3) would be discharged by the vendor, and  
(b) disregarding the matters specified in sub-paragraph (4).
- (3) The liabilities referred to in sub-paragraph (2)(a) are—  
(a) any mortgages of the tenant's interest,  
(b) any liability under the covenant required by paragraph 6 (payment for outstanding share on disposal), and  
(c) any liability under the covenant required by section 155 (repayment of discount on early disposal).
- (4) The matters to be disregarded in pursuance of sub-paragraph (2)(b) are any interests or rights over the dwelling-house created by the tenant, any improvements made by the tenant or any of the persons mentioned in section 127(4) (certain predecessors as secure tenant) and any failure by the tenant or any of those persons—

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- (a) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
- (b) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

## SCHEDULE 9

Section 151.

### RIGHT TO FURTHER ADVANCES

#### *Right to further advances*

- 1 (1) The deed shall enable the tenant to require further sums to be advanced to him in the circumstances and subject to the limits stated in this Schedule.
- (2) The right so conferred is exercisable, within three months of the tenant claiming to exercise his right to acquire an additional share, on the tenant serving written notice on the landlord or [<sup>F745</sup>Corporation].
- (3) Such a notice may be withdrawn at any time by notice in writing served on the landlord or [<sup>F745</sup>Corporation].

#### **Textual Amendments**

**F745** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. II para. 106](#)

#### *Amount of further advance*

- 2 The amount which a tenant exercising the right to a further advance is entitled to have advanced to him is, subject to the limit imposed by paragraph 3, the amount of his additional contribution.
- 3 (1) The limit is that the aggregate of that amount and the amount for the time being secured by the mortgage shall not exceed—
  - (a) where the right to a further advance belongs to one person, the amount to be taken into account, in accordance with regulations under paragraph 4, as his available annual income multiplied by such factor as, under the regulations, is appropriate to it;
  - (b) where the right to a further advance belongs to more than one person, the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.
- (2) Where the amount which a tenant is entitled to have advanced to him is reduced by the limit imposed by this paragraph, the landlord may, if it thinks fit and the tenant agrees, treat him as entitled to have advanced to him such amount exceeding that

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limit, but not exceeding the amount of his additional contribution, as the landlord may determine.

- 4 (1) The Secretary of State may by regulations make provision for calculating the amount which is to be taken into account as a person's available annual income and for specifying a factor appropriate to it.
- (2) The regulations may—
- (a) provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income, and
  - (b) specify different amounts and different factors for different circumstances.
- (3) Regulations under this paragraph—
- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Notice of amount and terms of further advance*

- 5 As soon as practicable after the service on it of a notice required by paragraph 1, the landlord or [F746Corporation] shall serve on the tenant a written notice stating—
- (a) the amount which, in the opinion of the landlord or [F746Corporation], the tenant is entitled to have advanced to him on the assumption that the additional share is as stated in the tenant's notice under paragraph 1 of Schedule 8 (claim-to exercise right to acquire additional shares),
  - (b) if greater than that amount, the amount which, in the opinion of the landlord or [F746Corporation], the tenant would be entitled to have advanced to him if the additional share were such that his total share would be 100 per cent,
  - (c) how that amount, or those amounts, have been arrived at, and
  - (d) the provisions which, in the opinion of the landlord or [F746Corporation], should be contained in the deed by which the further mortgage is effected.

**Textual Amendments**

F746 Word substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 Pt. II para. 106](#)

*Terms of deed by which further mortgage is effected*

- 6 Schedule 7 (terms of mortgage granted in pursuance of right to a mortgage) applies to the deed by which the further mortgage is effected, but with the substitution for any reference to the term of the lease of a reference to the unexpired term of the lease.

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PROSPECTIVE

## [<sup>F747</sup>SCHEDULE 9A

### LAND REGISTRATION AND RELATED MATTERS WHERE RIGHT TO BUY PRESERVED

#### Textual Amendments

**F747** Sch. 9A inserted by Housing and Planning Act 1986 (c. 63, SIF 61), s. 8(2), Sch. 2

#### *Statement to be contained in instrument effecting qualifying disposal*

- 1 On a qualifying disposal, the disponent shall secure that the instrument effecting the disposal—
- (a) states that the disposal is, so far as it relates to dwelling-houses occupied by secure tenants, a disposal to which section 171A applies (preservation of right to buy on disposal to private landlord), and
  - (b) lists, to the best of the disponent's knowledge and belief, the dwelling-houses to which the disposal relates which are occupied by secure tenants.

#### *Registration of title on qualifying disposal*

- 2 (1) <sup>F748</sup> .....
- (2) [ Where on a qualifying disposal the disponent's title to the dwelling-house is not registered, the disponent] shall give the disponent a certificate stating that the disponent is entitled to effect the disposal subject only to such incumbrances, rights and interests as are stated in the instrument effecting the disposal or summarised in the certificate.
- (3) Where the disponent's interest in the dwelling-house is a lease, the certificate shall also state particulars of the lease and, with respect to each superior title—
- (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the disponent's lease.
- (4) The certificate shall be—
- (a) in a form approved by the Chief Land Registrar, and
  - (b) signed by such officer of the disponent or such other person as may be approved by the Chief Land Registrar.
- and the Chief Registrar shall, for the purpose of registration of title, accept the certificate as sufficient evidence of the facts stated in it.

#### Textual Amendments

**F748** Sch. 9A para. 2(1) repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)



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3 F749 .....

**Textual Amendments**

**F749** Sch. 9A para. 3 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

*Entries on register protecting preserved right to buy*

- [ 4 (1) This paragraph applies where the Chief Land Registrar approves an application for registration of—
- (a) a disposition of registered land, or
  - (b) the donee's title under a disposition of unregistered land,
- and the instrument effecting the disposition contains the statement required by paragraph 1.
- (2) The Chief Land Registrar must enter in the register—
- (a) a notice in respect of the rights of qualifying persons under this Part in relation to dwelling-houses comprised in the disposal, and
  - (b) a restriction reflecting the limitation under section 171D(2) on subsequent disposal.]

*Change of qualifying dwelling-house*

- 5 (1) This paragraph applies where by virtue of section 171B(6) a new dwelling-house becomes the qualifying dwelling-house which—
- (a) is entirely different from the previous qualifying dwelling-house, or
  - (b) includes new land,
- and applies to the new dwelling-house or the new land, as the case may be.
- [ If the landlord's title is registered, the landlord shall apply for the entry in the register
- (2) of—
- (a) a notice in respect of the rights of the qualifying person or persons under the provisions of this Part, and
  - (b) a restriction reflecting the limitation under section 171D(2) on subsequent disposal.]

(3) F750 .....

(4) If the landlord's title is not registered, the rights of the qualifying person or persons under the provisions of this Part are registrable under the Land Charges Act<sup>M117</sup> 1972 in the same way as an estate contract and the landlord shall, and a qualifying person may, apply for such registration.

**Textual Amendments**

**F750** Sch. 9A para. 5(3) repealed (13.10.2003) by 2002 c. 9, ss. 133, 135, 136(2), Sch. 11 para. 18(9), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

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#### Marginal Citations

M117 1972 c.61(98:2).

#### *Effect of non-registration*

- 6 [ The rights of a qualifying person under this Part in relation to the qualifying dwelling
- (1) house shall not be regarded as falling within Schedule 3 to the Land Registration Act 2002 (and so are liable to be postponed under section 29 of that Act, unless protected by means of a notice in the register).]
- (2) Where by virtue of paragraph 5(4) the rights of a qualifying person under this Part in relation to the qualifying dwelling-house are registrable under the Land Changes Act <sup>M118</sup>1972 in the same way as an estate contract, section 4(6) of that Act (under which such a contract may be void against a purchaser unless registered) applies accordingly, with the substitution for the reference to the contract being void of a reference to the right to buy ceasing to be preserved.

#### Marginal Citations

M118 1972 c.61(98:2).

#### *Statement required on certain disposals on which right to buy ceases to be preserved*

- 7 (1) A conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person in pursuance of the right to buy shall state that it is made in pursuance of the provisions of this Part as they apply by virtue of section 171A (preservation of the right to buy).
- (2) Where on a conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person otherwise than in pursuance of the right to buy the dwelling-house ceases to be subject to any rights arising under this Part, the conveyance or grant shall contain a statement to that effect.
- (3) Where on a disposal of an interest in a qualifying dwelling-house the dwelling-house ceases to be subject to the rights of a qualifying person under this Part by virtue of section 171D(1)(a) or 171E(2)(a) (qualifying person becoming tenant of authority or body satisfying landlord condition for secure tenancies), the instrument by which the disposal is effected shall state that the dwelling-house ceases as a result of the disposal to be subject to any rights arising by virtue of section 171A (preservation of the right to buy).

#### *Removal of entries on land register*

- 8 Where the registered title to land contains an entry made by virtue of this Schedule, the Chief Land Registrar shall, for the purpose of removing or amending the entry, accept as sufficient evidence of the facts stated in it a certificate by the registered proprietor that the whole or a specified part of the land is not subject to any rights of a qualifying person under this Part.

#### *Liability to compensate or indemnify*

- 9 (1) An action for breach of statutory duty lies where—

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- (a) the disponent on a qualifying disposal fails to comply with paragraph 1 (duty to secure inclusion of statement in instrument effecting disposal), or
- (b) the landlord on a change of the qualifying dwelling-house fails to comply with paragraph 5(2) or (4) (duty to apply for registration protecting preserved right to buy),

and a qualifying person is deprived of the preserved right to buy by reason of the non-registration of the matters which would have been registered if that duty had been complied with.

(2) If the Chief Land Registrar has to meet a claim under the [Land Registration Act 2002] as a result of acting upon-

- (a) a certificate given in pursuance of paragraph 2 (certificate of title on first registration),
- (b) a statement made in pursuance of paragraph 7 (statements required on disposal on which right to buy ceases to be preserved), or
- (c) a certificate given in pursuance of paragraph 8 (certificate that dwelling-house has ceased to be subject to rights under this Part),

the person who gave the certificate or made the statement shall indemnify him.

*Meaning of disposal and instrument effecting disposal*

10 References in this Schedule to a disposal or to the instrument effecting a disposal are to the conveyance, transfer, grant or assignment, as the case may be.]

SCHEDULE 10

Sections 193, 220 and 375.

RECOVERY OF EXPENSES INCURRED BY LOCAL HOUSING AUTHORITY

*Introductory*

1 The provisions of this Schedule have effect for enabling the local authority to recover expenses reasonably incurred by them in carrying out, [<sup>F751</sup>in a case where the notice has not been complied with], works required to be carried out by a notice under—

section 189 or 190 (repair notices),

.....<sup>F752</sup>, or

section 352, . . .<sup>F752</sup> or 372 (notices relating to houses in multiple occupation).

**Textual Amendments**

**F751** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 165(1)(c), **Sch. 9 Pt. III para. 70(1)**

**F752** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), **Sch. 12 Pt. II**

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### *Recovery of expenses*

- 2 (1) The expenses are recoverable by the authority
- [<sup>F753</sup>(a) where the works were required by a notice under section 189 or section 190 (repair notices), from the person having control of the dwelling-house [<sup>F754</sup>house in multiple occupation] or part of the building to which the notice relates; and
- [ where the works were required by a notice under section 352 or 372 (notices
- <sup>F755</sup>(b) relating to houses in multiple occupation), from the person having control of the house or the person managing the house, as the authority think fit;]]
- and in the following provisions of this paragraph the person from whom expenses are recoverable by virtue of this sub-paragraph is referred to as “person primarily liable”.
- (2) Where the person [<sup>F756</sup>primarily liable]—
- (a) in the case of a notice under section 189 or 190 (repair notices), receives the rent of the premises as agent or trustee for some other person, or
- (b) in the case of a notice under section 352, . . . <sup>F757</sup> or 372 (notices relating to houses in multiple occupation), was only properly served with that notice as being an agent or trustee for some other person,
- the expenses are also recoverable by the authority from that other person, or partly from him and partly from the person [<sup>F756</sup>primarily liable].
- (3) Where the person [<sup>F758</sup>primarily liable] proves—
- (a) that sub-paragraph (2) applies, and
- (b) that he has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
- his liability is limited to the total amount of the money which he has, or has had, in his hands as mentioned in paragraph (b).
- (4) Expenses are not recoverable under this paragraph to the extent that they are by any direction of the court on appeal recoverable under an order of the court.

#### **Textual Amendments**

**F753** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(1)**

**F754** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(2)(a)**

**F755** [Sch. 10 para. 2\(b\)](#) substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(2)(b)**

**F756** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(2)**

**F757** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

**F758** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(2)**

### *Service of demand*

- 3 (1) A demand for the expenses, together with interest in accordance with paragraph 4, shall be served on the person from whom the authority seek to recover them.

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- (2) On the date on which the demand is served, the authority shall serve a copy of it on every other person who, to the knowledge of the authority, is an owner, lessee or mortgagee of the premises.
- (3) The demand becomes operative, if no appeal is brought, on the expiry of 21 days from the date of service of the demand and is final and conclusive as to matters which could have been raised on an appeal.

### *Interest*

- 4 Expenses in respect of which a demand is served carry interest, at such reasonable rate as the authority may determine, from the date of service until payment of all sums due under the demand.

F759 .....

5

#### **Textual Amendments**

**F759** Sch. 10 para. 5 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 70(3), **Sch. 12 Pt. II**

### *Appeals*

- 6 (1) A person aggrieved by a demand for the recovery of expenses, . . . <sup>F760</sup>, may within 21 days of the service of the demand or copy, . . . <sup>F760</sup> appeal to the county court.
- [<sup>F761</sup>(1A) Where the demand for recovery of expenses relates to works carried out by virtue of section 193(2A), it shall be a ground of appeal that, at the time the local housing authority gave notice under section 194 of their intention to enter and do the works, reasonable progress was being made towards compliance with the repair notice.]
- [<sup>F762</sup>(1B) Where the demand for recovery of expenses relates to works carried out by virtue of subsection (3) of section 375, it shall be a ground of appeal that, at the time the local housing authority served notice under subsection (3A) of that section, reasonable progress was being made towards compliance with the notice in question.]
- (2) On an appeal the court may make such order either confirming, quashing or varying the demand . . . <sup>F763</sup> as it thinks fit.
  - (3) A demand . . . <sup>F763</sup> against which an appeal is brought becomes operative, so far as it is confirmed on appeal, on the final determination of the appeal; and the withdrawal of an appeal has for this purpose the same effect as a decision dismissing the appeal.
  - (4) No question may be raised on appeal under this paragraph which might have been raised on an appeal against the relevant notice.

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#### Textual Amendments

**F760** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

**F761** [Sch. 10 para. 6\(1A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 130(1)(3), **Sch. 15 para. 13(3)**

**F762** [Sch. 10 para. 6\(1B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(3)**

**F763** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II**

#### *[<sup>F764</sup> Expenses and interest recoverable from occupiers]*

#### Textual Amendments

**F764** [Sch. 10 para. 6A](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 70(4)**

- 6A (1) Where a demand becomes operative by virtue of paragraph 3(3) or 6(3), the local housing authority may serve notice on any person—
- (a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 3(1); and
  - (b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served,
- stating the amount of expenses recoverable by the authority and requiring all future payments of rent or sums in the nature of rent, whether already accrued due or not, by such tenant or licensee to be made direct to the authority until the expenses recoverable by the authority, together with interest accrued due, have been duly paid.
- (2) In the case of a demand which was served on any person as agent or trustee for another person (in this sub-paragraph referred to as “the principal or beneficiary”) sub-paragraph (1) shall have effect as if the reference in each of paragraphs (a) and (b) to the person on whom the demand was served were a reference to that person or the principal or beneficiary.
- (3) Subject to sub-paragraph (4), where a notice is served under sub-paragraph (1) then, unless the authority by further notice served on the tenant or licensee otherwise direct, it shall operate to transfer to the authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.
- (4) The right of the authority to recover, receive and give a discharge for any rent or sums in the nature of rent by virtue of this paragraph shall be postponed to any right in respect of that rent or those sums which may at any time be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908.

#### *Expenses and interest to be a charge on the premises*

- 7 (1) The expenses recoverable by the authority, together with the interest accrued due, are, until recovered, a charge on the premises to which the notice related.

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- (2) The charge takes effect when the demand for the expenses and interest becomes operative.
- (3) The authority have for the purpose of enforcing the charge the same powers and remedies, under the <sup>M119</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

#### Marginal Citations

M119 1925 c. 20.

#### *Recovery of expenses and interest from other persons profiting from execution of works*

- 8 (1) This paragraph applies only to notices under section 352, . . . <sup>F765</sup> or 372 (notices relating to houses in multiple occupation).
- (2) If the authority apply to the county court and satisfy the court that—
- (a) the expenses and interest have not been and are unlikely to be recovered, and
  - (b) some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if the number of persons living in the premises was limited to that appropriate for the premises in their state before the works were executed,
- the court may, if satisfied that that person has had proper notice of the application, order him to make such payments to the authority as may appear to the court to be just.

#### Textual Amendments

**F765** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

## SCHEDULE 11

. . . <sup>F766</sup>

#### Textual Amendments

**F766** [Sch. 11](#) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(b), 194(4), [Sch. 9 Pt. II para. 28](#), [Sch. 12 Pt. II](#)

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## SCHEDULE 12

F767  
. . .

### Textual Amendments

**F767** Sch. 12 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), Sch. 12 Pt. II (in force 1.3.1990 but has no effect for financial year beginning before 1.4.1990)

## SCHEDULE 13

Sections 384, 386, 389, 393 and 394.

### FURTHER PROVISIONS RELATING TO CONTROL ORDERS UNDER PART XI

#### PART I

#### MANAGEMENT SCHEMES

#### *Contents of management scheme*

- 1 (1) The scheme shall give particulars of all works which, in the opinion of the local housing authority, they would, if a control order were not in force, have required to be carried out under any provision of this Part, or under any other enactment relating to housing or public health, and which, in their opinion, constitute works of capital expenditure.
- (2) The scheme shall include an estimate of the costs of carrying out the works of which particulars are given in the scheme.
- (3) The scheme shall specify what, in the opinion of the authority, is the highest number of individuals or households who should live in the house from time to time, having regard to—
  - (a) the considerations set out in section 352(1) (matters relevant to fitness of house for number of occupants), and
  - (b) the existing condition of the house and its future condition as the works progress which the authority carry out in the house.
- (4) The scheme shall include an estimate of the balance which will from time to time accrue to the authority after deducting from the rent or other payments received by the authority from persons occupying the house—
  - (a) the compensation payable by the authority to the dispossessed proprietor under section 389 and Part II of this Schedule, and
  - (b) all expenditure, other than that of which particulars are given under subparagraph (2), incurred by the authority in respect of the house while the control order is in force.



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### *The estimate in the scheme of surpluses on revenue account*

- 2
- (1) References in this Schedule to the surpluses on revenue account as settled by the scheme are to the amount included in the scheme by way of an estimate under paragraph 1(4), subject to any variation of the scheme made by the local housing authority or on an appeal or application to the court.
  - (2) In paragraph 1(4), and elsewhere in this Schedule, “rent or other payments”, in relation to payments received by the local housing authority from persons occupying a house subject to a control order, means rent or other payments so received—
    - (a) under leases or licences, or
    - (b) in respect of furniture to which section 383(1) applies (furniture comprised in furnished letting of which right to possession vests in authority).
  - (3) In paragraph 1(4), and elsewhere in this Schedule, references to expenditure incurred by the local housing authority in respect of a house subject to a control order include, in a case where the authority—
    - (a) require persons living in the house to vacate their accommodation for a period while the authority are carrying out works in the house, and
    - (b) provide housing accommodation for those persons for any part of that period or defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house,the net cost to the authority in so providing housing accommodation and the sums so defrayed by the authority.

### *Appeal against scheme*

- 3
- (1) A person having an estate or interest in a house to which a control order relates may, within six weeks from the date on which a management scheme relating to the house was served in accordance with section 386, or such longer period as the local housing authority may in writing allow, appeal to the county court against the scheme.
  - (2) The appeal may be on any of the following grounds—
    - (a) that, having regard to the condition of the house and to the other circumstances, any of the works of which particulars are given in the scheme (whether already carried out or not) are unreasonable in character or extent, or are unnecessary;
    - (b) that any of the works do not involve expenditure which ought to be regarded as capital expenditure;
    - (c) that the number of individuals or households living in the house, as specified by the local housing authority in the scheme, is unreasonably low;
    - (d) that the estimate of the surpluses on revenue account in the scheme is unduly low on account of assumptions made by the authority as to matters within their control (for example, as to the rents charged by them).
  - (3) On an appeal the court may, as it thinks fit, confirm or vary the scheme.
  - (4) Proceedings on an appeal against a scheme shall, so far as practicable, be combined with proceedings on any appeal under section 384 against the control order itself;

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and if on such an appeal the court decides to revoke the control order, the court shall not proceed with any appeal against the scheme.

*Expenditure on works to be set against surpluses on revenue account*

- 4 (1) An account shall be kept by the local housing authority for the period during which the control order is in force showing—
- (a) the surpluses on revenue account as settled by the scheme, and
  - (b) the expenditure incurred by the authority in carrying out works of which particulars were given in the scheme;
- and balances shall be struck in the account at half-yearly intervals so as to ascertain the amount of that expenditure which cannot be set off against those surpluses.
- (2) So far as, at the end of a half-yearly period, the expenditure is not so set off, it shall carry interest, at such reasonable rate as the authority may determine, until it is so set off or until the charge arising under paragraph 16 of this Schedule (recovery of expenditure when control order ceases to have effect) is satisfied.
- (3) So far as there is a sum out of the surpluses on revenue account not required to meet expenditure incurred by the authority, it shall go to meet interest under subparagraph (2).

*Variation or review of surpluses on revenue account as settled by the scheme*

- 5 The local housing authority may at any time vary a scheme in such a way as to increase the amount of the surpluses on revenue account as settled by the scheme for all or any periods, including past periods.
- 6 (1) The local housing authority, or a person having an estate or interest in the house, may at any time apply to the county court for a review of the surpluses on revenue account as settled by the scheme.
- (2) On such an application the court shall take into consideration—
- (a) whether in the period since the control order came into force the actual balances mentioned in paragraph 1(4) have exceeded, or been less than, the surpluses on revenue account as settled by the scheme, and
  - (b) whether there has been any change in circumstances such that the number of persons or households who should live in the house, or the amount of the rents and other payments receivable by the local housing authority from persons occupying the house, ought to be greater or less than was originally estimated.
- (3) The court may on such an application, as it thinks fit, confirm or vary the scheme (but not so as to affect the provisions of the scheme relating to the works), and may vary the surpluses on revenue account as settled by the scheme for all or any period, including past periods.

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## PART II

### COMPENSATION PAYABLE TO DISPOSSESSED PROPRIETOR

#### *Rate of compensation*

- 7 The compensation payable by the local housing authority to the dispossessed proprietor in pursuance of section 389(1)(a) shall be at an annual rate equal to
- [<sup>F768</sup>(a) in a case where the gross value of the house was shown in the valuation list on the date a control order made before 1st April 1990 came into force,] one half of the gross value of the house multiplied by the appropriate multiplier [<sup>F769</sup>in accordance with paragraphs 8 to 13; and
- (b) in any other case, one half of the rental value of the house in accordance with paragraph 13A.]

#### **Textual Amendments**

**F768** Sch. 13 Pt. II para. 7(a) inserted by S.I. 1990/434, reg. 2, Sch. para. 24(a)

**F769** Words beginning “in accordance with” and Sch. 13 Pt. II para. 7(b) inserted by S.I. 1990/434, reg. 2, Sch. para. 24(b)

#### *Ascertainment of gross value of house*

- 8 Subject to the following provisions, the gross value of a house for the purposes of this Part of this Schedule is its gross value for rating purposes as shown in the valuation list on the date when the control order comes into force.
- 9 (1) If the house forms part only of a hereditament, the gross value of the house is such proportion of the gross value shown in the valuation list for that hereditament as may be agreed in writing between the local housing authority and the person claiming compensation.
- (2) If any dispute arises under sub-paragraph (1), the authority or the person claiming compensation may by means of a reference in writing submit the dispute for decision by the district valuer.
- 10 If the house consists or forms part of more than one hereditament, the gross value shall be ascertained by determining the gross value of each hereditament or part as if it were a separate house and aggregating the gross values so determined.
- 11 (1) The gross value of a hereditament whose rateable value is by virtue of subsection (1) of section 19 of the <sup>M120</sup>General Rate Act 1967 to be taken to be its net annual value ascertained in accordance with subsections (2) to (4) of that section shall be taken to be its corresponding gross value, that is to say, the gross value which would be equivalent to the net annual value shown in the valuation list if there were deducted any amounts which by virtue of an order made or falling to be treated as made under

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section 19(2) of the General Rate Act 1967 would be deducted from the gross value of the hereditament if it had been required to be assessed to its gross value instead of its net annual value.

- (2) If more than one value is so ascertained to be the corresponding gross value, the highest value so ascertained shall be taken.

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

**C165** Sch. 13 Pt. II para. 11 restricted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 5(1), Sch. 3 para. 4

**Marginal Citations**

**M120** 1967 c. 9.

- 12 Where after the date on which the control order comes into force—
- (a) the valuation list is altered so as to vary the gross value (or where paragraph 11 applies the net annual value) of the house or of the hereditament of which the house forms part, and
  - (b) the alteration has effect from a date before, or from the same date as, the control order came into force,
- compensation is payable as if the value shown in the list on the date when the control order came into force had been that shown in the list as altered.

*The appropriate multiplier*

- 13 (1) The appropriate multiplier for the purposes of this Part of this Schedule is that specified by order of the Secretary of State.
- (2) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*[<sup>F770</sup> Calculation of rental value]*

**Textual Amendments**

**F770** Sch. 13 Pt. II para. 13A inserted by S.I. 1990/434, reg. 2, Sch. para. 25

- 13A (1) The rental value of a house is an amount equal to the rent at which the house might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and the landlord undertook to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the house in a state to command that rent.
- (2) The amount referred to in sub-paragraph (1) shall be determined by the local housing authority as at the date on which the control order comes into force; and any dispute

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arising in respect of that determination shall be referred in writing for decision by the district valuer.

*Apportionment of compensation between proprietors of different parts of house*

- 14 (1) If different persons are the dispossessed proprietors of different parts of the house, the compensation payable shall be apportioned between them according to the proportions of the gross value [<sup>F771</sup>, or as the case may be, rental value] of the house properly attributable to the parts of the house in which they are respectively interested.
- (2) If they do not agree on the apportionment they shall refer the matter, in writing, for determination by the district valuer.

**Textual Amendments**

**F771** Words inserted by S.I. 1990/434, reg. 2, Sch. para. 26

**PART III**

CESSATION OF CONTROL ORDER

*General consequences of cessation of control order*

- 15 (1) On and after the date on which a control order ceases to have effect—
- (a) a lease, licence or agreement in which the local housing authority were substituted for another party by virtue of section 382 (effect of order on persons occupying house) has effect with the substitution of the original party, or his successor in title, for the authority,
  - (b) an agreement in the nature of a lease or licence created by the local housing authority has effect with the substitution of the dispossessed proprietor for the authority.
- (2) If the dispossessed proprietor is a lessee, nothing in a superior lease imposes liability on him, or on a superior lessee, in respect of anything done in pursuance of the terms of an agreement in which the dispossessed proprietor is substituted for the local housing authority by virtue of this paragraph.
- (3) This paragraph applies in all circumstances in which a control order ceases to have effect.
- 16 (1) When a control order ceases to have effect, a final balance shall be struck in the account mentioned in paragraph 4(1) and the expenditure reasonably incurred by the local housing authority in carrying out works of which particulars were given in the management scheme, together with interest at such reasonable rate as the authority may determine is, so far as not set off against the surpluses on revenue account as settled by the scheme, a charge on the premises.

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- (2) The premises subject to the charge include any part of the premises excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (3) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the <sup>M121</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrender of leases and of appointing a receiver.
- (4) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.
- (5) References in this paragraph to the provisions of the management scheme include reference to the provisions as varied; and if, when the control order ceases to have effect, proceedings are pending which may result in a variation of the scheme—
  - (a) those proceedings may be continued until finally determined, and
  - (b) if the charge under this paragraph is enforced before the final determination of those proceedings, the local housing authority shall account for any money recovered by enforcing the charge which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered.
- (6) This paragraph does not apply—
  - (a) where a control order is revoked by the county court on an appeal against the order, or
  - (b) where a control order ceases to have effect under Part IV of this Schedule (control order followed by compulsory purchase order),
 but applies in every other case where a control order ceases to have effect (including the case where the order is revoked by a court on appeal from the county court).

#### **Marginal Citations**

**M121** 1925 c. 20.

#### *Revocation of order by county court on appeal against making of order*

- 17
- (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal against the control order.
  - (2) The court shall take into consideration whether the state or condition of the house is such that action ought to be taken by the local housing authority under any other provision of this Part, and shall approve the taking of any of the following steps accordingly, that is—
    - (a) the serving of a notice under section 352, 366 or 372 (notices requiring the execution of works),
    - (b) the giving of a direction under section 354 (direction limiting number of occupants of house), or
    - (c) the making of an order under section 370 (order applying management code to house);
 and no appeal lies against a notice or order so approved.



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- 19 (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order is revoked on an appeal against the order.
- (2) On the hearing of the appeal the authority may apply to the court for the approval of those works on the ground that—
- (a) they were works which, if a control order had not been in force, the authority could have required some person to carry out under any provision of this Part or under any other enactment relating to housing or public health, and
  - (b) the works could not be postponed until after the determination of the appeal by the county court because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons.
- (3) Expenditure reasonably incurred by the authority in carrying out works so approved—
- (a) may be deducted by the authority out of the balances which they are liable to pay to the dispossessed proprietor under paragraph 18, and
  - (b) so far as not so deducted, is a charge on the premises and on all estates and interests in the premises;
- and the premises subject to the charge include any part of the premises which was excluded from the provisions of the order under section 380 (modification of order where proprietor resides in part of the house).
- (4) The charge takes effect as from the date when the control order is revoked and the expenditure so charged carries interest from that date at such reasonable rate as the authority may determine.
- (5) The local housing authority have for the purposes of enforcing the charge all the same powers and remedies, under the <sup>M122</sup>Law of Property Act 1925 and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (6) The power of appointing a receiver is exercisable at any time after the expiration of one month from the date when the charge takes effect.

**Marginal Citations**

M122 1925 c. 20.

*Revocation of control order on further appeal*

- 20 (1) If on an appeal from a decision of the county court confirming a control order it is determined that the control order should be revoked, but the local housing authority satisfy the court hearing the appeal—
- (a) that they are in the course of carrying out works in the house which, if a control order were not in force, they would have power to require some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
  - (b) that the carrying out of the works could not be postponed until the time when the control order could no longer be revoked by order of any court



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on an appeal against the order because the works were urgently required for the sake of safety, welfare or health of persons living in the house, or other persons,

the court may suspend the revocation of the control order until the works have been completed.

(2) If on the hearing by the county court of an appeal against a control order the appellant indicates—

- (a) that an appeal may be brought against any decision of the county court confirming the order, and
- (b) that certain works ought not, unless the control order is confirmed on the further appeal, to be works the cost of which can be recovered by the local housing authority under paragraph 4 or 16,

the county court may direct that those works shall not be works of which the cost may be so recovered if they are begun before the time when the further appeal is finally determined and the control order is not confirmed on that appeal.

*Revocation of control order by county court on appeal against refusal to revoke*

21 (1) The provisions of this paragraph apply where a control order is revoked by the county court on an appeal under section 393 (appeal against refusal of local housing authority to revoke order).

(2) If the local housing authority represent to the court that revocation of the control order would unreasonably delay completion of works of which particulars were given in the management scheme, and which the authority have begun to carry out the court shall take the representations into account and may, if it thinks fit, revoke the control order as from the time when the works are completed.

(3) The court may make an order under which the revocation does not take effect until the time for appealing against the decision of the county court has expired and any appeal brought within that time has been finally determined.

(4) The court may approve the taking of any of the following steps, to take effect on the revocation of the control order, that is—

- (a) the serving of a notice under section 352, . . . <sup>F772</sup> or 372 (notices requiring the execution of works), [<sup>F773</sup> or]
- (b) the giving of a direction under section 354 (direction limiting number of occupants of house), . . . <sup>F774</sup>
- (c) . . . . . <sup>F775</sup>

and no appeal lies against a notice . . . <sup>F776</sup> so approved.

(5) Where the house will on the revocation of the control order be charged with any sum in favour of the local housing authority by virtue of any provision of this Schedule, the court may make it a condition of the revocation of the order that the appellant first pays off to the authority that sum or such part of that sum as the court may specify.

(6) The court may authorise the local housing authority to create under section 381(1) (c) (power to create interests akin to leases) interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding

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section 381(2), are for a fixed term exceeding one month or are terminable by notice to quit (or an equivalent notice of more than four weeks.

#### Textual Amendments

- F772** Figure repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(a), **Sch. 12 Pt. II**
- F773** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 165(1)(c), **Sch. 9 Pt. III para. 71(b)**
- F774** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(b), **Sch. 12 Pt. II**
- F775** Sch. 13 Pt. III para. 21(4)(c) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(c), **Sch. 12 Pt. II**
- F776** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 165(1)(c), 194(4), Sch. 9 Pt. III para. 71(d), **Sch. 12 Pt. II**

## PART IV

### CONTROL ORDER FOLLOWED BY COMPULSORY PURCHASE ORDER

#### *Introductory*

- 22 The provisions of this Part of this Schedule apply where the local housing authority make a control order with respect to a house and within 28 days of the making of that order make a compulsory purchase order for the acquisition of the house under Part II of this Act (provision of housing accommodation).

#### *Preparation and service of management scheme*

- 23 (1) The local housing authority need not prepare or serve a management scheme under section 386 until they are notified by the Secretary of State of his decision to confirm or not to confirm the compulsory purchase order.
- (2) The time within which copies of the scheme are to be served under section 386 is—
- (a) if the Secretary of State's decision is not to confirm the compulsory purchase order, eight weeks from the date on which that decision is notified to the authority;
  - (b) if the Secretary of State's decision is to confirm the compulsory purchase order, eight weeks from the time at which the compulsory purchase order becomes operative.

#### *Control order ceases to have effect on acquisition of house*

- 24 Where the compulsory purchase order is confirmed by the Secretary of State, the control order ceases to have effect—

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- (a) if the local housing authority enter into a contract to purchase the house, on the date when the contract is made;
- (b) if the local housing authority, in pursuance of a notice served under section 11 of the <sup>M123</sup>Compulsory Purchase Act 1965, enter and take possession of the house or serve a notice under section 583 of this Act (power to take possession without displacing tenant), on the date when the notice under section 11 is served.

#### Marginal Citations

M123 1965 c. 56.

#### *Balances payable to dispossessed proprietor*

- 25
- (1) Where a control order ceases to have effect by virtue of paragraph 24, the local housing authority shall pay to the dispossessed proprietor the balance which from time to time accrued to the authority after deducting from the rent or other payments received by them from persons occupying the house—
    - (a) the compensation payable to him by the authority, and
    - (b) all expenditure (other than capital expenditure) incurred by the authority in respect of the house while the control order was in force.
  - (2) The local housing authority shall give notice to the dispossessed proprietor informing him of the balances which they propose to pay him under this paragraph and of his right to appeal.
  - (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court.
  - (4) If on such an appeal the court is of opinion that the balances are unduly low for any reason within the control of the local housing authority, having regard to—
    - (a) the desirability of observing the standards of management contained in regulations made under section 369 (the management code), and
    - (b) the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge,the court shall direct that for the purposes of the authority's liability to the dispossessed proprietor under this paragraph the balances shall be deemed to be such greater amount as the court may direct.
  - (5) The court shall not under sub-paragraph (4) give a direction which will afford to the dispossessed proprietor a sum greater than the amount which, in the opinion of the court, he may have lost by the making of the control order.
  - (6) If different persons are dispossessed proprietors of different parts of the house, sums payable under this paragraph shall be apportioned between them in the manner provided by paragraph 14.

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*Recovery of capital expenditure incurred by local housing authority*

- 26 (1) The provisions of this paragraph have effect for the purpose of enabling the local housing authority to recover capital expenditure incurred in carrying out works in the house in the period before the control order ceases to have effect.
- (2) The local housing authority may, by a notice served on the dispossessed proprietor, specify such works as being works—
- (a) which the authority could, if the control order were not in force, have required some person to carry out under any provision of this Part of this Act or under any other enactment relating to housing or public health, and
  - (b) which could not be postponed because they were urgently required for the sake of the safety, welfare or health of persons living in the house, or other persons;
- and such a notice shall inform the dispossessed proprietor of his right to appeal.
- (3) The dispossessed proprietor may, within 21 days of the service of the notice or such longer period as the local housing authority may in writing allow, appeal to the county court which may confirm, vary or quash the notice.
- (4) Expenditure reasonably incurred by the local housing authority in carrying out the works specified in a notice under this paragraph (or specified in such a notice as varied on appeal) may be deducted by the authority from the balances which they are liable to pay to the dispossessed proprietor under paragraph 25.
- (5) So far as that expenditure exceeds those balances, it may, if the house is purchased compulsorily, be deducted from the amount payable as compensation, and accordingly any interest payable on that amount shall be calculated after allowing for the deduction.

SCHEDULE 14

. . . F777

**Textual Amendments**

**F777** Sch. 14 repealed and superseded by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), ss. 74(6), 88(3), 194(4), [Sch. 12 Pt. II](#)

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## SCHEDULE 15

Section 432.

### SUPERSEDED CONTRIBUTIONS, GRANTS, SUBSIDIES, &C.

#### PART I

##### LOANS UNDER THE HOUSING (RURAL WORKERS) ACTS 1926 TO 1942

The <sup>M124</sup>Housing (Rural Workers) Acts 1926 to 1942, and any enactment so far as it relates to the rate of interest payable on a loan under those Acts, continue to have effect in relation to a loan made under section 2 of the Housing (Rural Workers) Act 1926 before 10th August 1972.

#### Marginal Citations

[M124 1926 c. 56.](#)

#### PART II

##### EXCHEQUER CONTRIBUTIONS FOR AGRICULTURAL HOUSING

*(s. 46 of the Housing (Financial Provisions) Act 1958)*

##### *Contributions by Secretary of State to local housing authority*

- 1 (1) Contributions by the Secretary of State to a local housing authority remain payable under section 46 of the <sup>M125</sup>Housing (Financial Provisions) Act 1958 (contributions payable over a period of 40 years for agricultural housing provided under arrangements made with the authority) in pursuance of an undertaking made before 10th August 1972.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

#### Marginal Citations

[M125 1958 c. 42.](#)

##### *Conditions of payment of contributions*

- 2 (1) It is a conditions of the payment of a contribution in respect of a house in any year that throughout the year the house—
  - (a) is reserved for members of the agricultural population, and
  - (b) if let, is let at rent not exceeding the limit applicable in accordance with the following provisions of this paragraph,

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and that the local housing authority certify to the Secretary of State that all reasonable steps have been taken to secure the maintenance of the house in a proper state of repair during the year.

- (2) The condition specified in sub-paragraph (1)(a) shall be deemed to be observed at any time if the house is let on or subject to a protected or statutory tenancy to which section 99 of the <sup>M126</sup>Rent Act 1977 applies (dwelling-houses let to agricultural workers, etc.) or is subject to a protected occupancy or statutory tenancy within the meaning of the <sup>M127</sup>Rent (Agriculture) Act 1976.
- (3) The limit referred to in sub-paragraph (1)(b) is in the case of a condition imposed before 8th December 1965—
  - (a) if the tenancy is a regulated tenancy (other than a converted tenancy within the meaning of Schedule 17 to the Rent Act 1977), the rent which would be recoverable if the tenancy had been converted from being a controlled tenancy on the commencement of section 64 of the <sup>M128</sup>Housing Act 1980 and accordingly as if it were a converted tenancy;
  - (b) if the tenancy is a converted tenancy, or a housing association tenancy within the meaning of Part VI of the Rent Act 1977, the rent recoverable under that Act;
  - (c) if the tenancy is a protected occupancy or statutory tenancy within the meaning of the Rent (Agriculture) Act 1976, the rent recoverable in accordance with that Act;
  - (d) in any other case, such rent as may from time to time be, or have been, agreed between the landlord and the local housing authority or as may, in default of agreement, be or have been determined by the Secretary of State.
- (4) The limit referred to in sub-paragraph (1)(b) is in the case of a condition imposed on or after 8th December 1965 such rent as the local housing authority may from time to time determine as being in their opinion the rent which would have been appropriate for them to charge if the house had been provided by them.
- (5) Where the house is let together with other land at a single rent, such proportion of that rent as the local housing authority may determine shall be deemed for the purposes of the condition specified in sub-paragraph (1)(b) to be the rent at which the house is let.

#### Marginal Citations

**M126** 1977 c. 42.

**M127** 1976 c. 80.

**M128** 1980 c. 51.

- 3 (1) In the case of a house completed on or after 18th April 1946 the payment of a contribution for any year during which the house is at any time occupied by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant is also subject to the following condition.
- (2) The condition is that if the contract of service is terminated—
  - (a) by less than four weeks' notice given by the employer, or
  - (b) by dismissal of the employee without notice, or
  - (c) by the death of either party,

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the employer or his personal representatives will permit the employee (or, in the case of his death, any person residing with him at his death) to continue to occupy the house free of charge from the determination of the contract until the expiration of a period of four weeks beginning with the date on which the notice is given, or, if the contract is determined otherwise than by notice, with the date on which it is determined.

*Grants payable to owners by local housing authority*

- 4
- (1) Where a contribution is paid to a local housing authority, the authority shall pay by way of annual grant to the owner of the house an amount not less than the contribution paid by the Secretary of State.
  - (2) No such grant shall be made if before it is made the Secretary of State is satisfied that during the whole or the greater part of the period to which the payment of the grant is referable the house has not been available as a dwelling fit for habitation, unless he is satisfied that that could not with reasonable diligence have been achieved.
  - (3) Any question as to the period to which a payment is referable shall be determined for the purpose of this paragraph by the Secretary of State.
  - (4) Where the duty of a local housing authority to make a grant is wholly or partly discharged by virtue of this paragraph, the Secretary of State shall make such consequential reductions as he thinks fit in any sum payable by him to the authority.

*No further payments if house vests in local housing authority*

- 5
- Where a house which has been provided under arrangements under section 46 of the <sup>M129</sup>Housing (Financial Provisions) Act 1958 becomes vested in the local housing authority making the arrangements, no further sums are payable by the Secretary of State or the authority in respect of the house under this Part of this Schedule.

**Marginal Citations**  
[M129 1958 c. 42.](#)

**PART III**

CONTRIBUTIONS FOR IMPROVEMENT OF DWELLINGS BY HOUSING AUTHORITIES

*(s. 9 of the Housing (Financial Provisions) Act 1958;  
s. 13 of the House Purchase and Housing Act 1959)*

- 1
- (1) Subject to sub-paragraph (2), contributions by the Secretary of State to a local authority remain payable—
    - (a) under section 9 of the <sup>M130</sup>Housing (Financial Provisions) Act 1958 (contributions over a period of 20 years towards the cost to local authorities

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- of works of conversion or improvement) in pursuance of proposals approved before 25th August 1969, and
- (b) under section 13 of the <sup>M131</sup>House Purchase and Housing Act 1959 (contributions over a period of 20 years in respect of standard amenities provided by local authorities), in pursuance of applications approved before 25th August 1969.
- (2) No contribution is payable under this paragraph in respect of a dwelling within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
- (3) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (4) The amount or duration of any contribution payable under this paragraph to which section 25(2) of the Housing (Financial Provisions) Act 1958 applied immediately before the commencement of this Act (payments arising out of the exercise of housing powers by county councils) may be reduced by the the Secretary of State at his discretion.

**Marginal Citations**

**M130** 1958 c. 42.

**M131** 1959 c. 33.

*(ss. 17 to 20 of the Housing Act 1969)*

- 2 (1) Contributions by the Secretary of State to a housing authority remain payable under section 18 or 19 of the <sup>M132</sup>Housing Act 1969 (improvement contributions or standard contributions payable over a period of 20 years for dwellings converted or improved by the authority) in pursuance of applications approved before 2nd December 1974.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (3) No contribution is payable under this paragraph in respect of a dwelling within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
- (4) The amount or duration of any contribution payable under this paragraph to which section 25(2) of the <sup>M133</sup>Housing (Financial Provisions) Act 1958 Act applied immediately before the commencement of this Act (payments arising out of the exercise of housing powers by county councils) may be reduced by the Secretary of State at his discretion.

**Marginal Citations**

**M132** 1969 c. 33.

**M133** 1958 c. 42.



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*(s. 79 of the Housing Act 1974)*

- 3
- (1) Subject to sub-paragraph (2), contributions by the Secretary of State to a housing authority remain payable under section 79 of the <sup>M134</sup>Housing Act 1974 (improvement contributions payable over a period of 20 years) in pursuance of applications approved before 8th August 1980.
  - (2) No contribution is payable under this paragraph in respect of dwellings within a local housing authority's Housing Revenue Account or a new town corporation's housing account.
  - (3) The contributions are payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**Marginal Citations**

M134 1974 c. 44.

**PART IV**

TOWN DEVELOPMENT SUBSIDY

*(s. 9 of the Housing Finance Act 1972; s. 5 of the Housing Rents and Subsidies Act 1975)*

*Transitional town development subsidy*

- 1
- (1) Transitional town development subsidy is payable each year, subject to the following provisions of this Part of this Schedule, to a sending authority to whom town development subsidy under section 9 of the <sup>M135</sup>Housing Finance Act 1972 was payable for the year 1974-75; and the amount of the subsidy, subject to the following provisions of this Schedule, is the amount of town development subsidy payable to the authority for the year 1974-75.
  - (2) The subsidy is payable for the credit of the sending authority's general rate fund.

**Marginal Citations**

M135 1972 c. 47.

- 2
- (1) The subsidy is payable by the Secretary of State at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
  - (2) The payment of subsidy is subject to the making of a claim for it in such form and containing such particulars as the Secretary of State may from time to time determine.
  - (3) The amount of the subsidy for any year shall be calculated to the nearest pound, by disregarding an odd amount of £0·50, or less, and by treating an odd amount exceeding £0·50 as a whole pound.

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- (4) A direction or determination under this paragraph may contain supplementary or incidental provisions and may be made to apply to a specified description of authorities or to a specified authority.

*Reduction or discontinuance of subsidy*

- 3 (1) The Secretary of State may reduce or discontinue a sending authority's transitional town development subsidy if a dwelling in respect of which it is payable—
- (a) has been demolished,
  - (b) has been disposed of by the receiving authority,
  - (c) is not fit to be used, or is not being used, for letting as a dwelling, or
  - (d) in any other circumstances he considers relevant.
- (2) The Secretary of State may from time to time determine for the purposes of sub-paragraph (1)—
- (a) the circumstances in which a dwelling is to be treated as having been demolished or disposed of,
  - (b) the circumstances in which a dwelling is to be treated as not fit to be used, or as not being used, for letting as a dwelling,
  - (c) in which circumstances other than those mentioned in sub-paragraph (1)(a) to (c) an authority's transitional town development subsidy is to be reduced or discontinued, and
  - (d) the method by which any calculation is to be made;
- and the power conferred by paragraph (b) above also includes power to determine what constitutes letting as a dwelling.
- (3) A determination under this paragraph may contain supplementary or incidental provisions and may be made to apply to a specified description of authorities or dwellings or to a specified authority.

*Payments to receiving authority*

- 4 (1) Where transitional town development subsidy is payable, the sending authority shall for each year pay to the receiving authority four times the amount of the sending authority's transitional town development subsidy attributable to dwellings of the receiving authority which are available in that year for tenants from the sending authority.
- (2) The payments are for the credit of the receiving authority's general rate fund.

*Communication of subsidy and payments to receiving authority*

- 5 (1) The Secretary of State may, with the agreement of the sending authority and the receiving authority, determine—
- (a) to commute further payments of transitional town development subsidy into a single payment of an amount to be determined by him or calculated in a manner determined by him, and
  - (b) to commute the corresponding payments by the sending authority to the receiving authority under paragraph 4 into a single payment of four times that payable under paragraph (a).

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- (2) In making a determination the Secretary of State shall make such allowance, if any, as appears to him appropriate for circumstances in which, if there were no commutation, his power under paragraph 3 to reduce or discontinue the sending authority's transitional town development subsidy might be exercised.

*Meaning of "receiving authority"*

- 6 In this part of this Schedule "receiving authority" means the council of a receiving district within the meaning of the <sup>M136</sup>Town Development Act 1952.

**Marginal Citations**

M136 1952 c. 54.

SCHEDULE 16

Section 438.

LOCAL AUTHORITY MORTGAGE INTEREST RATES

*The rate of interest*

- 1 (1) The rate of interest shall be whichever is for the time being the higher of—  
(a) the standard national rate, or  
(b) the applicable local average rate.
- (2) The rate shall be capable of being varied by the local authority whenever a change in either or both of those rates requires it; and the amount of the periodic payments shall be capable of being changed accordingly.

*The standard national rate*

- 2 The standard national rate is the rate for the time being declared as such by the Secretary of State after taking into account interest rates charged by building societies in the United Kingdom and any movement in those rates.

*The local average rate*

- 3 A local authority shall for every period of six months declare, on a date falling within the month immediately preceding that period—  
(a) a rate applicable to the advances and transfers mentioned in section 438(1) (a) and (c) (advances under section 435 and transfers of mortgages under section 442), and  
(b) a rate applicable to sums left outstanding as mentioned in section 438(1) (b) (sums left outstanding on disposal of house).

<sup>F778</sup>4 (1) The rate declared under paragraph 3(a) or (b) shall be a rate calculated in such manner as the Secretary of State may determine.

- (2) A determination under this paragraph—

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- (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local authorities or for different descriptions of local authorities; and
  - (b) may be varied or withdrawn by a subsequent determination.
- (3) As soon as practicable after making a determination under this paragraph, the Secretary of State shall send a copy of the determination to the local authority or authorities to which it relates.]

#### **Textual Amendments**

**F778** Sch. 16 para. 4 substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 88](#)

#### *Variation of rate of interest*

- 5
- (1) Where on a change of the standard national rate or the applicable local average rate a rate of interest is capable of being varied, the local authority shall vary it.
  - (2) The authority shall serve on the person liable to pay the interest notice in writing of the variation not later than two months after the change.
  - (3) The variation shall take effect with the first payment of interest due after a date specified in the notice, which—
    - (a) if the variation is a reduction, shall be not later than one month after the change, and
    - (b) if the variation is an increase, shall not be earlier than one month nor later than three months after the service of the notice.
- 6
- (1) On a variation of the rate of interest, the local authority may make a corresponding variation of the periodic payments.
  - (2) The authority shall do so if the period over which the repayment of principal is to be made would otherwise be reduced below the period fixed when the mortgage was effected.
  - (3) The variation shall be notified and take effect together with the variation of the rate of interest.

#### *Directions by Secretary of State*

- 7
- (1) The Secretary of State may by notice in writing to a local authority direct it to treat a rate specified in the notice as being the higher of the two rates mentioned in paragraph 1, either for a period specified in the notice or until further notice; and the preceding provisions of this Schedule have effect accordingly.
  - (2) A direction so given may be varied or withdrawn by a further notice in writing.

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## SCHEDULE 17

Section 452.

### VESTING OF MORTGAGED HOUSE IN AUTHORITY ENTITLED TO EXERCISE POWER OF SALE

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

**C166** Sch. 17 modified by S.I. 1986/797, regs. 20, 22

#### *Vesting of house with leave of court*

- 1
- (1) The authority may, if the county court gives it leave to do so, by deed vest the house in itself—
    - (a) for the estate and interest in the house which is the subject of the mortgage and which the authority would be authorised to sell or convey on exercising its power of sale, and
    - (b) freed from all estates, interests and rights to which the mortgage has priority but subject to all estates, interests and rights which have priority to the mortgage.
  - (2) Where application for leave under this paragraph is made to the county court, the court may adjourn the proceedings or postpone the date for the execution of the authority's deed for such period as the court thinks reasonable.
  - (3) An adjournment or postponement may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedy of any default as the court thinks fit; and the court may from time to time vary or revoke any such conditions.

#### *Effect of vesting*

- 2
- (1) On the vesting of the house the authority's mortgage term or charge by way of legal mortgage, and any subsequent mortgage term or charge, shall merge or be extinguished as respects the house.
  - (2) Where the house is registered under the Land Registration Acts 1925 to 1971, the Chief Land Registrar shall, on application being made to him by the authority, register the authority as the proprietor of the house free from all estates, interests and rights to which its mortgage had priority, and he shall not be concerned to inquire whether any of the requirements of this Schedule were complied with.
  - (3) Where the authority conveys the house, or part of it, to a person—
    - (a) he shall not be concerned to inquire whether any of the provisions of this Schedule were complied with, and
    - (b) his title shall not be impeachable on the ground that the house was not properly vested in the authority or that those provisions were not complied with.
  - (4) A house which is vested under this Schedule in a local housing authority shall be treated as acquired under Part II (provision of housing).

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### *Compensation and accounting*

- 3 (1) Where the authority has vested the house in itself under paragraph 1, it shall appropriate a fund equal to the aggregate of—
- (a) the amount agreed between the authority and the mortgagor or determined by the district valuer as being the amount which under sub-paragraph (2) is to be taken as the value of the house at the time of the vesting, and
  - (b) interest on that amount, for the period beginning with the vesting and ending with the appropriation, at the rate prescribed for that period under section 32 of the <sup>M137</sup>Land Compensation Act 1961 (rate prescribed for compulsory purchase cases where entry is made before compensation is paid).
- (2) The value of the house at the time of the vesting shall be taken to be the price which, at that time, the interest vested in the authority would realise if sold on the open market by a willing vendor on the assumption that any prior incumbrances to which the vesting is not made subject would be discharged by the vendor.
- (3) The fund shall be applied in the following order—
- (a) in discharging, or paying sums into court for meeting, any prior incumbrances to which the vesting is not made subject;
  - (b) in recovering the costs, charges, and expenses properly incurred by the authority as incidental to the vesting of the house;
  - (c) in recovering the mortgage money, interest, costs and other money (if any) due under the mortgage;
  - (d) in recovering any amount which falls to be paid under the covenant required by section 35 or 155 (repayment of discount, etc. on disposal) or paragraph 6 of Schedule 8 (terms of shared ownership lease: payment for outstanding share on disposal) or any provision of the conveyance or grant to the like effect;
- and any residue then remaining in the fund shall be paid to the person entitled to the mortgaged house, or who would have been entitled to give receipts for the proceeds of sale of the house if it had been sold in the exercise of the power of sale.
- (4) Section 107(1) of the <sup>M138</sup>Law of Property Act 1925 (mortgagee’s written receipt sufficient discharge for money arising under power of sale) applies to money payable under this Schedule as it applies to money arising under the power of sale conferred by that Act.

#### **Marginal Citations**

**M137** 1961 c. 33.

**M138** 1925 c. 20.

#### *Modifications in case of conveyance or grant before 8th August 1980*

- 4 In a case to which this Schedule applies by virtue of section 452(6) (disposals before 8th August 1980 of property held by local authorities for housing purposes), the preceding paragraphs have effect with the following modifications—
- (a) for “house” substitute “ property ”;
  - (b) for paragraph (a) of paragraph 3 (1) (value of house) substitute—

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- “(a) the price at which the authority could have re-acquired the property by virtue of the condition mentioned in section 452(6)(b),”
- and omit paragraph 3(2) (which provides for ascertaining the value of the house);
- (c) omit paragraph (d) of paragraph 3(3) (which relates to repayment of discount and similar matters).

## SCHEDULE 18

Section 456.

### PROVISIONS WITH RESPECT TO ADVANCES UNDER THE SMALL DWELLINGS ACQUISITION ACTS 1899 TO 1923

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

C167 Sch. 18 amended by S.I. 1986/148, art. 10(1)

#### *Repayment of advance*

- 1 (1) The advance shall be repaid with interest within such period not exceeding 30 years as may be agreed upon.
- (2) The rate of interest is per cent, in excess of the rate of interest which, one month before the date on which the terms of the advance were settled, was the rate fixed by the Treasury in respect of loans to local authorities for the purposes of Part V of the <sup>M139</sup>Housing Act 1957 (provision of housing), as follows—
- (a) where the time referred to is before 27th February 1964, the rate so fixed under section 1 of the <sup>M140</sup>Public Works Loans Act 1897;
- (b) where the <sup>M141</sup>time referred to is on or after 27th February 1964 and before 1st April 1968, the rate so fixed under section 2 of the Public Works Loans Act 1964 in respect of loans made on the security of local rates, or, where there was more than one rate so fixed, such of those rates as the Treasury have directed in that behalf under that section;
- (c) where the <sup>M142</sup>time referred to is on or after 1st April 1968, the rate determined under section 6(2) of the National Loans Act 1968 in respect of local loans of that class made on the security of local rates, subject to any relevant direction given by the Treasury under that subsection.
- (3) The repayment may be made either by equal instalments of principal or by an annuity of principal and interest combined; and all payments on account of principal or interest shall be made either weekly or at such other periods not exceeding half a year as may be agreed.
- (4) The proprietor of a house in respect of which an advance has been made may at any of the usual quarter days, after one month's written notice, and on paying all sums due on account of interest, repay to the local authority—
- (a) the whole of the outstanding principal of the advance, or
- (b) any part of it, being £10 or a multiple of £10;
- and where the repayment is made by an annuity of principal and interest combined, the amount so outstanding, and the amount by which the annuity will be reduced

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where a part of the advance is paid off, shall be determined by a table annexed to the instrument securing the repayment of the advance.

#### **Marginal Citations**

- M139** 1957 c. 56.
- M140** 1897 c. 51.
- M141** 1964 c. 9.
- M142** 1968 c. 13.

#### *The statutory conditions*

- 2 (1) The house of which the ownership was acquired by means of the advance shall be held subject to the following conditions (in this Schedule referred to as “the statutory conditions”):—
- (a) Every sum for the time being due in respect of principal or interest for the advance shall be punctually paid;
  - (b) The proprietor shall reside in the house;
  - (c) The house shall be kept insured against fire to the satisfaction of the local authority, and the receipts for the premiums produced when required by them;
  - (d) The house shall be kept in good sanitary condition and good repair;
  - (e) The house shall not be used for the sale of intoxicating liquors, or in such a manner as to be a nuisance to adjacent houses;
  - (f) The local authority shall have power to enter the house by any person, authorised by them in writing for the purpose, at all reasonable times for the purpose of ascertaining whether the statutory conditions are complied with.
- (2) The statutory condition as to residence has effect for a period of three years from the date when the advance is made, or from the date on which the house is completed, whichever is the later.
- (3) The other statutory conditions have effect until the advance has been fully repaid, with interest, or the local authority have taken possession or ordered a sale under this Schedule.

#### *Condition as to residence may be dispensed with or suspended*

- 3 (1) The statutory condition as to residence may at any time be dispensed with by the local authority.
- (2) The local authority may allow a proprietor to permit, by letting or otherwise, a house to be occupied as a furnished house by some other person—
- (a) during a period not exceeding four months in all in any twelvemonths, or
  - (b) during his absence from the house in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him;
- and the statutory condition as to residence is suspended while the permission continues.
- (3) Where the proprietor of a house subject to the statutory conditions dies, the condition requiring residence is suspended until the expiration of twelve months from the death,



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or any earlier date at which the personal representatives transfer the ownership or interest of the proprietor in the course of administration.

- (4) Where the proprietor of any such house becomes bankrupt, or his estate [F779] falls to be administered in accordance with an order under section [F780]421 of the Insolvency Act 1986]], and in either case an arrangement under this Schedule is made with the trustee in bankruptcy, the local authority may, if they think fit, suspend the condition as to residence during the continuance of the arrangement.
- (5) Where an advance has been made in pursuance of section 7(1) of the M143 Small Dwellings Acquisition Act 1899 (power to make advance on strength of undertaking to begin residence), the statutory condition requiring residence is suspended during the period allowed before residence must be begun.

#### Textual Amendments

**F779** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1)(2), Sch. 8 para. 39(2), **Sch. 9 para. 11(2)**

**F780** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 439(2), **Sch. 14**

#### Marginal Citations

**M143** 1899 c. 44.

#### *Personal liability and powers of the proprietor*

- 4 (1) The proprietor of the house of which the ownership was acquired by means of the advance is personally liable for the repayment of any sum due in respect of the advance until he ceases to be proprietor by reason of a transfer made in accordance with this paragraph.
- (2) The proprietor of the house may with the permission of the local authority (which shall not be unreasonably withheld) at any time transfer his interest in the house, but any such transfer shall be made subject to the statutory conditions.
- (3) The provisions of sub-paragraph (2) requiring the consent of the local authority to the transfer of the proprietor's interest in the house do not apply to a charge on that interest made by the proprietor, so far as the charge does not affect any rights or powers of the local authority under this Schedule.

#### *Circumstances in which local authority may take possession or order sale*

- 5 (1) Where default is made in complying with the statutory condition as to residence, the local authority may take possession of the house, and where default is made in complying with any of the other statutory conditions, whether the statutory condition as to residence has or has not been complied with, the local authority may either take possession of the house or order the sale of the house without taking possession.
- (2) In the case of the breach of any condition other than that of punctual payment of the principal and interest of the advance, the authority shall, previously to taking possession or ordering a sale, by notice in writing delivered at the house and addressed to the proprietor, call on the proprietor to comply with the condition, and if the proprietor—

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- (a) within 14 days after the delivery of the notice gives an undertaking in writing to the authority to comply with the notice, and
  - (b) within two months after the delivery of the notice complies with it,
- the authority shall not take possession or, as the case may be, order a sale.
- (3) In the case of the bankruptcy of the proprietor of the house, or in the case of a deceased proprietor's estate [<sup>F781</sup>falling to be administered in accordance with an order under section [<sup>F782</sup>421 of the Insolvency Act 1986]], the local authority may either take possession of the house or order the sale of the house without taking possession, and shall do so except in pursuance of some arrangement to the contrary with the trustee in bankruptcy.

#### Textual Amendments

**F781** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1)(2), Sch. 8 para. 39(3), **Sch. 9 para. 11(2)**

**F782** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 439(2), **Sch. 14**

#### *Recovery of possession and disposal of house*

- 6 (1) Where a local authority take possession of a house, all the estate, right, interest and claim of the proprietor in or to the house shall vest in and become the property of the local authority, and the authority may either retain the house under their own management or sell or otherwise dispose of it as they think expedient.
- (2) Where a local authority take possession of a house, they shall pay to the proprietor either—
- (a) such sum as may be agreed upon, or
  - (b) a sum equal to the value of the interest in the house at the disposal of the local authority, after deducting the amount of the advance then remaining unpaid and any sum due for interest;
- and that value, in the absence of a sale and in default of agreement, shall be settled by a county court judge as arbitrator or, if the Lord Chancellor so authorises, by a single arbitrator appointed by the county court judge, and the <sup>M144</sup>Arbitration Act 1950 shall apply to any such arbitration.
- (3) The sum so payable to the proprietor if not paid within three months after the date of taking possession shall carry interest at the rate of three per cent. per annum from the date of taking possession.
- (4) All costs of or incidental to the taking possession, sale or other disposal of the house (including the costs of the arbitration, if any) incurred by the local authority, before the amount payable to the proprietor has been settled either by agreement or arbitration, shall be deducted from the amount otherwise payable to the proprietor.
- (5) Where the local authority are entitled under this Schedule to take possession of a house, possession may be recovered in a county court whatever the annual value of the house for rating.

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

C168 Sch. 18 para. 6(5) amended by S.I. 1990/776, art. 4(1)(h)

**Marginal Citations**

M144 1950 c. 27.

*Procedure as to ordering sale*

- 7 (1) Where a local authority order the sale of a house without taking possession, they shall cause it to be put up for sale by auction and shall retain out of the proceeds of sale—
- (a) any sum due to them on account of the interest or principal of the advance, and
  - (b) all costs, charges and expenses properly incurred by them in or about the sale of the house,
- and shall pay over the balance (if any) to the proprietor.
- (2) If the local authority are unable at the auction to sell the house for such a sum as will allow of the payment out of the proceeds of sale of the interest and principal of the advance then due to the authority, and the costs, charges and expenses referred to above, they may take possession of the house in manner provided by this Schedule, but shall not be liable to pay any sum to the proprietor.

*List of advances and accounts to be kept*

- 8 (1) A local authority shall keep at their offices a book containing a list of the advances made by them containing—
- (a) a description of the house in respect of which the advance was made, and
  - (b) the amount advanced.
- (2) The authority shall enter in the book with regard to each advance—
- (a) the amount for the time being repaid,
  - (b) the name of the proprietor for the time being of the house, and
  - (c) such other particulars as the authority think fit to enter.
- (3) The book shall be open to inspection at the office of the local authority during office hours free of charge.
- (4) Separate accounts shall be kept by every local authority of their receipts and expenditure in relation to advances to which this Schedule applies.

*Meaning of “residence”, “ownership” and “proprietor”*

- 9 (1) A person shall not be treated for the purposes of this Schedule as resident in a house unless he is both the occupier of and resident in the house.
- (2) In this Schedule “ownership” means such interest, or combination of interests, in a house as, together with the interest of the purchaser of the ownership, will constitute either—
- (a) a fee simple in possession, or

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- (b) a leasehold interest in possession of which at least 60 years are unexpired at the date of the purchase.
- (3) Where the ownership of a house is acquired by means of an advance to which this Schedule applies, the purchase of the ownership or, in the case of any devolution or transfer, the person in whom the interest of the purchaser is for the time being vested, is the proprietor of the house for the purposes of this Schedule.

*Date of advance*

- 10 For the purposes of this Schedule an advance shall be deemed to have been made on the date on which the instrument securing the repayment of the advance was executed.

SCHEDULE 19

Section 524.

CONTRIBUTIONS UNDER SUPERSEDED ENACTMENTS

*(Section 36 of the Housing (Financial Provisions) Act 1958)*

- 1 (1) Contributions remain payable by the Secretary of State under section 36 of the <sup>M145</sup>Housing (Financial Provisions) Act 1958 1958 (contributions over a period of 20 years towards certain grants under Part II of that Act, Part II of the <sup>M146</sup>House Purchase and Housing Act 1959 or Part III of the Housing Act 1964) in pursuance of applications made before 25th August 1969.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**Marginal Citations**

**M145** 1958 c. 42.

**M146** 1959 c. 33.

*(Section 16 of the Housing Act 1969)*

- 2 (1) Contributions remain payable by the Secretary of State under section 16 of the <sup>M147</sup>Housing Act 1969 (contributions over a period of 20 years towards grants paid under Part I of that Act) in pursuance of applications made before 12th December 1974.
- (2) The contributions are payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

**Marginal Citations**

**M147** 1969 c. 33.

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## SCHEDULE 20

Section 547.

### ASSISTANCE BY WAY OF REPURCHASE

#### PART I

##### THE AGREEMENT TO REPURCHASE

###### *The interest to be acquired*

- 1 In this Schedule “the interest to be acquired” means the interest of the person entitled to assistance by way of repurchase, so far as subsisting in—
- (a) he defective dwelling, and
  - (b) any garage, outhouse, garden, yard and appurtenances occupied and used for the purposes of the dwelling or a part of it.

###### *Request for notice of proposed terms of acquisition*

- 2 (1) A person who is entitled to assistance by way of repurchase, may, within the period of three months beginning with the service of the notice of determination, or that period as extended, request the purchasing authority in writing to notify him of the proposed terms and conditions for their acquisition of the interest to be acquired.
- (2) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend, or further extend, the period within which he may make a request under this paragraph (whether or not the period has expired).

###### *Authority’s notice of proposed terms*

- 3 The purchasing authority shall, within the period of three months beginning with the making of a request under paragraph 2, serve on the person so entitled a notice in writing specifying the proposed terms and conditions and stating—
- (a) their opinion as to the value of the interest to be acquired, and
  - (b) the effect of the following provisions of this Part of this Schedule.

###### *Settlement of terms*

- 4 Subject to the provisions of Part II of this Schedule (price payable and valuation), an agreement for the acquisition by the purchasing authority of the interest to be acquired shall contain such provisions as the parties agree or, in default of agreement, are determined in accordance with this Part of this Act to be reasonable.

###### *Service of draft agreement*

- 5 The authority shall, within three months of all the provisions to be included in the agreement being agreed or determined—
- (a) draw up for execution by the parties an agreement embodying those provisions, and
  - (b) serve a copy of the agreement on the person entitled to assistance.

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*Notice to enter into agreement*

- 6 (1) The person entitled to assistance may, at any time within the period of six months beginning with the service of the copy of the agreement, or within that period as extended, notify the authority in writing that he requires them to enter into an agreement embodying those provisions and the authority shall comply with the requirement.
- (2) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled extend, or further extend, the period within which a notice under this paragraph may be given (whether or not the period has expired).

**PART II**

PRICE PAYABLE AND VALUATION

*The price*

- 7 (1) The price payable for the acquisition of an interest in pursuance of this Part of this Act is 95 per cent. of the value of the interest at the relevant time.
- (2) In this Schedule “the relevant time” means the time at which the notice under paragraph 3 above (authority’s notice of proposed terms of acquisition) is served on the person entitled to assistance.

*The value*

- 8 (1) For the purposes of this Schedule, the value of an interest at the relevant time is the amount which, at that time, would be realised by a disposal of the interest on the open market by a willing seller to a person other than the purchasing authority on the following assumptions—
- (a) that none of the defective dwellings to which the designation in question relates is affected by the qualifying defect;
  - (b) that no liability has arisen or will arise under a covenant required by section 35 or 155 (covenant to repay discount) or paragraph 6(1) of Schedule 8 (terms of shared ownership lease: covenant to pay for outstanding share), or any covenant to the like effect;
  - (c) that no obligation to acquire the interest arises under this Part of this Act; and
  - (d) that (subject to the preceding paragraphs) the seller is selling with and subject to the rights and burdens with and subject to which the disposal is to be made.
- (2) Where the value of an interest falls to be considered at a time later than the relevant time and there has been since the relevant time a material change in the circumstances affecting the value of the interest, the value at the relevant time shall be determined on the further assumption that the change had occurred before the relevant time.
- (3) In determining the value of an interest no account shall be taken of any right to the grant of a tenancy under section 554 (former owner-occupier) or section 555 (former statutory tenant).

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### *Determination of value*

- 9
- (1) Any question arising under this Schedule as to the value of an interest in a defective dwelling shall be determined by the district valuer in accordance with this paragraph.
  - (2) The person entitled to assistance or the purchasing authority may require that value to be determined or redetermined by notice in writing served on the district valuer—
    - (a) within the period beginning with the service on the person entitled to assistance of a notice under paragraph 3 above (authority's notice of proposed terms of acquisition) and ending with the service under paragraph 5 above of the copy of the agreement drawn up for execution by the parties, or
    - (b) after the end of that period but before the parties enter into an agreement for the acquisition of the interest of the person so entitled, if there is a material change in the circumstances affecting the value of the interest.
  - (3) A person serving notice on the district valuer under this paragraph shall serve notice in writing of that fact on the other party.
  - (4) Before making a determination in pursuance of this paragraph, the district valuer shall consider any representation made to him, within four weeks of the service of the notice under this paragraph, by the person entitled to assistance or the purchasing authority.

### *Service of amended draft agreement*

- 10
- Where the value of an interest is determined, or redetermined, in pursuance of a notice served under paragraph 9(2)(b) (notice given after service of draft agreement)—
- (a) the purchasing authority shall comply again with paragraph 5 (service of draft agreement within three months of terms being settled), and
  - (b) paragraph 6 (notice to enter into agreement) shall apply in relation to that agreement instead of the earlier one.

## **PART III**

### **SUPPLEMENTARY PROVISIONS**

#### *Introductory*

- 11
- (1) In this Part of this Schedule “the agreement” means the agreement entered into in pursuance of Parts I and II of this Schedule, and—
    - “the authority” means the authority acquiring an interest in a defective dwelling under the agreement;
    - “the conveyance” means the conveyance executed under the agreement;
    - “the interest acquired” means the interest in the dwelling concerned of which the vendor disposes under the agreement;
    - “the purchase price” means the price which the agreement requires the authority to pay for the interest acquired; and
    - “the vendor” means the person with whom the authority enter into the agreement.
  - (2) In this Part of this Schedule—

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- (a) references to a charge include a mortgage or lien, but not a rentcharge within the meaning of the <sup>M148</sup>Rentcharges Act 1977, and
- (b) references to a relevant charge are to a charge to which the interest acquired is subject immediately before the conveyance and which secures the performance of an obligation but is not either a local land charge or a charge which is, or would be, overreached by the conveyance apart from this Schedule.

**Marginal Citations**

**M148** 1977 c. 30.

*Conveyance frees interest acquired from relevant charges*

- 12 (1) The conveyance is effective—
- (a) to discharge the interest acquired from any relevant charge,
  - (b) to discharge the interest acquired from the operation of any order made by a court for the enforcement of such a charge, and
  - (c) to extinguish any term of years created for the purposes of such a charge,
- without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.
- (2) The effect of this paragraph is restricted to discharging the interest acquired from the charge and does not affect personal liabilities.
  - (3) This paragraph does not prevent a person from joining in the conveyance for the purpose of discharging the interest acquired from a charge.
  - (4) The operation of this paragraph is subject to paragraph 14 (effect of failure to apply purchase price in or towards satisfaction of charge).

*Application of purchase price in satisfaction of relevant charges*

- 13 (1) The authority shall apply the purchase price in the first instance in or towards the redemption of any relevant charge securing the payment of money (if there is more than one, then according to their priorities), subject to the provisions of this paragraph.
- (2) For the purposes of this paragraph—
- (a) a person entitled to a charge may not exercise a right to consolidate the charge with a separate charge on other property;
  - (b) a person may be required to accept three months' or longer notice of the intention to repay the principal or any part of it secured by the charge, together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment;
  - (c) a charge to which the vendor or the authority themselves are entitled ranks for payment as it would if another person were entitled to it; and
  - (d) where a person, without payment or for less payment than he would otherwise be entitled to, joins in the conveyance for the purpose of discharging the interest acquired from a charge, the persons to whom the purchase price ought to be paid shall be determined accordingly.



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- (3) This paragraph does not apply to—
- (a) a charge in favour of the holders of a series of debentures issued by a body, or
  - (b) a charge in favour of trustees for such debenture holders which at the date of the conveyance is a floating charge;
- and the authority shall disregard such charges in performing their duty under this paragraph.

- 14 If the authority do not apply an amount which under paragraph 13 they are required to apply in or towards the redemption of a charge (and do not pay that amount into court in accordance with paragraph 15), the charge is not discharged by virtue of paragraph 12 and the interest acquired remains subject to the charge as security for that amount.

*Power to make payment into court in case of difficulty*

- 15 (1) Where a person is or may be entitled by virtue of paragraph 13 to receive, in respect of a relevant charge, the whole or part of the purchase price and—
- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge, or
  - (b) for any reason mentioned in sub-paragraph (2) difficulty arises in making a payment in respect of the charge,
- the authority may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if the amount is not known, the whole of the purchase price, or such lesser amount as the authority think right in order to provide for that payment.
- (2) The reasons referred to in sub-paragraph (1)(b) are—
- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained;
  - (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any step reasonably required of him to enable the sum payable to be ascertained and paid; or
  - (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

*Duty to pay into court in certain cases*

- 16 (1) The authority shall pay the purchase price into court if, before the execution of the conveyance, written notice is given to them—
- (a) that the vendor, or a person entitled to a charge on the interest to be acquired, so requires either for the purpose of protecting the rights of persons so entitled or for reasons related to the bankruptcy or winding up of the vendor, or
  - (b) that steps have been taken to enforce a charge on the interest to be acquired by the bringing of proceedings in a court, by the appointment of a receiver or otherwise.

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- (2) Where a payment into court is made by reason only of a notice under this paragraph and the notice is given with reference to proceedings in a specified court (other than the county court), payment shall be made into that court.

### *Registration of title*

- 17 (1) Section 123 of the <sup>M149</sup>Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance whether or not the dwelling concerned is in an area in which an Order in Council under section 120 of that Act is in force (areas of compulsory registration).
- (2) For the purposes of registration of title to the land acquired by the authority—
- (a) the authority shall give to the Chief Land Registrar a certificate stating that the person from whom the relevant interest was acquired to convey the interest subject only to such incumbrances, rights and interests as are stated in the conveyance or summarised in the certificate, and
  - (b) the Chief Land Registrar shall accept the certificate as sufficient evidence of the facts stated in it;
- but if, as a result, he has to meet a claim against him under the Land Registration Acts 1925 to 1971, the authority shall indemnify him.
- (3) A certificate under sub-paragraph (2) shall be in a form approved by the Chief Land Registrar and shall be signed by such officer of the authority, or such other person, as may be approved by the Chief Land Registrar.

#### **Marginal Citations**

**M149** 1925 c. 21.

### *Interest acquired by local housing authority treated as acquired under Part II*

- 18 If the authority are a local housing authority, the interest acquired by them shall be treated as acquired by them under section 17 (acquisition of land for purposes of Part II (provision of housing)).

### *Certain grant conditions cease to have effect*

- 19 (1) Where the interest acquired is or includes a dwelling in relation to which an improvement grant, intermediate grant, special grant or repairs grant has been paid under Part XV—
- (a) any grant condition imposed under or by virtue of that Part ceases to be in force with respect to the dwelling with effect from the time of disposal of the interest, and
  - (b) the owner for the time being of the dwelling is not liable to make in relation to the grant any payment under section 506 (repayment of grant for breach of condition) except in pursuance of a demand made before the time of disposal of the interest.
- (2) In this paragraph “dwelling” and “owner” have the same meaning as in Part XV.

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### *Overreaching effect of conveyance*

- 20 The conveyance has effect under section 2(1) of the <sup>M150</sup>Law of Property Act 1925 (conveyances overreaching certain equitable interests and powers) to overreach any incumbrance capable of being overreached under that section—
- (a) as if the requirements to which that section refers as to the payment of capital money allowed any part of the purchase price paid under paragraph 13, 15 or 16 (payment in satisfaction of charge or into court) to be so paid, and
  - (b) where the interest conveyed is settled land, as if the conveyance were made under the powers of the <sup>M151</sup>Settled Land Act 1925.

#### **Marginal Citations**

**M150** 1925 c. 20.

**M151** 1925 c. 18.

## SCHEDULE 21

Section 566.

### DWELLINGS INCLUDED IN MORE THAN ONE DESIGNATION

#### *Introductory*

- 1 This Schedule applies in relation to a defective dwelling where the building that the dwelling consists of or includes falls within two or more designations under section 528 (designation by Secretary of State) or 559 (designation under local scheme).

#### *Cases in which later designation to be disregarded*

- 2 Where a person is already eligible for assistance in respect of a defective dwelling at a time when another designation comes into operation, the later designation shall be disregarded if—
- (a) he would not be eligible for assistance in respect of the dwelling by virtue of that designation, or
  - (b) he is by virtue of an earlier designation entitled to assistance by way of repurchase in respect of the dwelling.

#### *In other cases any applicable designation may be relied on*

- 3 Where a person is eligible for assistance in respect of a defective dwelling and there are two or more applicable designations, this Part has effect in relation to the dwelling as if—
- (a) references to the designation were to any applicable designation;
  - (b) references to the provision by virtue of which it is a defective dwelling were to any provision under which an applicable designation was made;
  - (c) references to the qualifying defect were to any qualifying defect described in an applicable designation;

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- (d) references to the period within which persons may seek assistance under this Part were to any period specified for that purpose in any applicable designation; and
- (e) the reference in section 543(1)(c) (amount of reinstatement grant) to the maximum amount permitted to be taken into account for the purposes of that section were to the aggregate of the maximum amounts for each applicable designation.

*Procedure to be followed where later designation comes into operation*

- 4 The following provisions of this Schedule apply where—
- (a) notice has been given to a person under section 536 (determination of eligibility) stating that he is in the opinion of the local housing authority eligible for assistance in respect of a defective dwelling, and
  - (b) after the notice has been given another designation comes into operation designating a class within which the building that consists of or includes the dwelling falls.
- 5 (1) The local housing authority shall, as soon as reasonably practicable, give him notice in writing stating whether in their opinion the new designation falls to be disregarded in accordance with paragraph 2.
- (2) If in their opinion it is to be disregarded the notice shall state the reasons for their view.
- 6 (1) This paragraph applies where it appears to the authority that the new designation does not fall to be disregarded.
- (2) They shall forthwith give him notice in writing—
- (a) stating the effect of the new designation and of paragraph 3 (new designation may be relied on) and sub-paragraph (3) below (entitlement to be redetermined), and
  - (b) informing him that he has the right to make a claim under section 537(2) (claim that assistance by way of reinstatement grant is inappropriate in his case).
- (3) They shall as soon as reasonably practicable—
- (a) make a further determination under section 537(1) (determination of form of assistance to which person is entitled), taking account of the new designation, and
  - (b) give a further notice of determination in place of the previous notice;
- and where the determination is that he is entitled to assistance by way of repurchase, the notice shall state the effect of paragraph 7 (cases where reinstatement work already begun or contracted for).
- 7 (1) This paragraph applies where a person entitled to assistance by way of reinstatement grant is given a further notice of entitlement under paragraph 6 stating that he is entitled to assistance by way of repurchase; and “the reinstatement work” means the work stated in the previous notice or in a notice under section 544 (change of work required).
- (2) Where in such a case—

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- (a) he satisfies the authority that he has, before the further notice was received, entered into a contract for the provision of services or materials for any of the reinstatement work, or
  - (b) any such work has been carried out before the further notice was received, and has been carried out to the satisfaction of the appropriate authority,
- the previous notice (and any notice under section 544 (change of work required)) continues to have effect for the purposes of reinstatement grant in relation to the reinstatement work or, in a case within paragraph (b), such of that work as has been carried out as mentioned in that paragraph, and the authority shall pay reinstatement grant accordingly.
- (3) Where in a case within sub-paragraph (2) the reinstatement work is not completed but part of the work is carried out to the satisfaction of the appropriate authority within the period stated in the notice in question—
- (a) the amount of reinstatement grant payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant payable under section 545(2) (instalments not to exceed appropriate percentage of cost of work completed), and
  - (b) section 546 (repayment of grant in event of failure to complete work) does not apply in relation to reinstatement grant paid in respect of that part of the work.

## SCHEDULES 22—24.

F783

### Textual Amendments

**F783** Schs. 22–24 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), [Sch. 12 Pt. II](#)

## TABLE OF DERIVATIONS

1 The following abbreviations are used in this Table—

### ACTS OF PARLIAMENT

1899	= The Small Dwellings Acquisition Act 1899 (c. 44).
1923 (c. 24)	= The Housing &c. Act 1923.
1935 (c. 40)	= The Housing Act 1935.
1936 (c. 49)	= The Public Health Act 1936.
1957	= The Housing Act 1957 (c. 56)

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1958	= The Housing (Financial Provisions) Act 1958 (c. 42).
1959 (H)	= The House Purchase and Housing Act 1959 (c. 33).
1959 (U)	= The Housing (Underground Rooms) Act 1959 (c. 34).
1959 (c. 53)	= The Town and Country Planning Act 1959.
1961 (c. 33)	= The Land Compensation Act 1961.
1961	= The Housing Act 1961 (c. 65).
1961 (c. 64)	= The Public Health Act 1961.
1963 (c. 33)	= The London Government Act 1963.
1964 (c. 9)	= The Public Works Loans Act 1964.
1964	= The Housing Act 1964 (c. 56).
1965 (c. 56)	= The Compulsory Purchase Act 1965.
1965 (c. 75)	= The Rent Act 1965.
1965	= The Housing (Slum Clearance Compensation) Act 1965 (c. 81).
1967 (c. 9)	= The General Rate Act 1967.
1967 (c. 80)	= The Criminal Justice Act 1967.
1968 (c. 13)	= The National Loans Act 1968.
1968 (c. 23)	= The Rent Act 1968.
1968 (c. 42)	= The Prices and Incomes Act 1968.
1969 (c. 19)	= The Decimal Currency Act 1969.
1969	= The Housing Act 1969 (c. 33).
1971 (c. 23)	= The Courts Act 1971.
1971	= The Housing Act 1971 (c. 76).
1971 (c. 78)	= The Town and Country Planning Act 1971.
1972	= The Housing Finance Act 1972 (c. 47).
1972 (c. 70)	= The Local Government Act 1972.
1972 (c. 71)	= The Criminal Justice Act 1972.
1973 (H)	= The Housing Amendment Act 1973 (c. 5).
1974 (c. 7)	= The Local Government Act 1974.
1974 (c. 39)	= The Consumer Credit Act 1974.
1974	= The Housing Act 1974 (c. 44).

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1975	= The Housing Rents and Subsidies Act 1975 (c. 6).
1975 (c. 24)	= The House of Commons Disqualification Act 1975.
1975 (c. 72)	= The Children Act 1975.
1975 (c. 76)	= The Local Land Charges Act 1975.
1976 (c. 52)	= The Armed Forces Act 1976.
1976 (c. 57)	= The Local Government (Miscellaneous Provisions) Act 1976.
1976 (c. 75)	= The Development of Rural Wales Act 1976.
1976 (c. 80)	= The Rent (Agriculture) Act 1976.
1977 (c. 42)	= The Rent Act 1977.
1977 (c. 43)	= The Protection from Eviction Act 1977.
1977 (c. 45)	= The Criminal Law Act 1977.
1977	= The Housing (Homeless Persons) Act 1977 (c. 48).
1978	= The Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (c. 27).
1978 (c. 30)	= The Interpretation Act 1978.
1978 (I)	= The Home Insulation Act 1978 (c. 48).
1980 (c. 43)	= The Magistrate's Courts Act 1980.
1980	= The Housing Act 1980 (c. 51).
1980 (c. 65)	= The Local Government, Planning and Land Act 1980.
1981 (c. 54)	= The Supreme Court Act 1981.
1981 (c. 64)	= The New Towns Act 1981.
1981 (c. 67)	= The Acquisition of Land Act 1981.
1982 (c. 24)	= The Social Security and Housing Benefits Act 1982.
1982 (c. 48)	= The Criminal Justice Act 1982.
(1984 (c. 12)	= The Telecommunications Act 1984.
1984 (c. 22)	= The Public Health (Control of Disease) Act 1984.
1984 (c. 28)	= The County Courts Act 1984.

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1984	= The Housing and Building Control Act 1984 (c. 29).
1984 (D)	= The Housing Defects Act 1984 (c. 50).
1985 (c. 9)	= The Companies Consolidation (Consequential Provisions) Act 1985.
1985 (c. 51)	= The Local Government Act 1985.
	Subordinate legislation
S.I. 1972/1204	= The Isles of Scilly (Housing) Order 1972.
S.I. 1973/886	= The Isles of Scilly (Housing) (No. 2) Order 1973.
S.I. 1975/512	= The Isles of Scilly (Housing) Order 1975.
S.I. 1979/72	= The Isles of Scilly (Functions) Order 1979.
S.I. 1981/723	= The Local Authority Contributions (Disposal of Dwellings) Order 1981.
S.I. 1982/1109	= The Crown Court Rules 1982.
S.I. 1983/613	= The Grants by Local Authorities (Eligible Expense Limits) Order 1983.
S.I. 1983/1122	= The Housing (Northern Ireland Consequential Amendments) Order 1983.

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- 2 The Table does not show the effect of Transfer of Functions Orders.
  - 3 The letter R followed by a number indicates that the provision gives effect to the Recommendation bearing that number in the law Commission's Report on the Consolidation of the Housing Acts (Cmnd. 9515).
  - 4 A reference followed by "*passim*" indicates that the provision of the consolidation derives from passages within those referred to which it is not convenient, and does not appear necessary, to itemise.
  - 5 The entry "drafting" indicates a provision of a mechanical or editorial nature affecting the arrangement of the consolidation; for instance, a provision introducing a Schedule or introducing a definition to avoid undue repetition of the defining words.



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