



# Housing Act 1985

## 1985 CHAPTER 68

### PART II

#### PROVISION OF HOUSING ACCOMMODATION

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

- C1** Pt. II (ss. 8–57): power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. [65\(2\)\(a\)\(4\)](#)
- C2** 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>[F1]</sup>the consideration of the housing conditions in their district under section 605].

##### Textual Amendments

- F1** 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

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- (b) by acquiring houses.
- (2) The authority may alter, enlarge, repair or improve a house so erected, converted or acquired.
- (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>F2</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

**F2** 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>M1</sup>Consumer Credit Act 1974.

#### Marginal Citations

**M1** 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.

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- (3) A justices' licence under the <sup>M2</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.
- (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

M2 1964 c. 26

### [<sup>F3</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.

<sup>F4</sup>(4) . . . . . ]

#### Textual Amendments

**F3** S. 11A inserted (*retrospectively to 1.4.1990*) by 1993 c. 28, s. 126

**F4** S. 11A(4) repealed (18.10.2000 with application in relation to England only and otherwise 9.4.2001) by 2000 c. 22, s. 107, Sch. 6; S.I. 2000/2836, art. 2(b)(iii); S.I. 2001/1471, art. 2

## 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 [<sup>F5</sup>but in England], 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.
- [<sup>F6</sup>(2A) Where a Welsh county council or county borough council propose to exercise the power in England they shall before doing so give notice of their intention 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, [<sup>F7</sup>county borough,] 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.

#### Textual Amendments

- F5** Words in s. 14(2)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(4) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1
- F6** S. 14(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(4) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1
- F7** Words in s. 14(3) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(4) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch. 1

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*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.
- (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.

<sup>F8</sup>**16** .....

**Textual Amendments**

**F8** S. 16 repealed (1.10.1996) by 1996 c. 52, ss. 222, 227, Sch. 18 Pt. IV para. 20, Sch. 19 Pt. XII; S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

*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 [<sup>F9</sup>or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided].
- (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.

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- (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.

#### Textual Amendments

**F9** Words in s. 17(2) inserted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 24(1)**

### 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.

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## Housing management

### 20 Application of housing management provisions.

- (1) The following provisions of this Part [<sup>F10</sup>down to [<sup>F11</sup>section 27BA]] (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

- F10** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt II para. 21](#)
- F11** Words in s. 20(1) substituted (1.10.1996) by [1996 c. 52, s. 222](#), [Sch. 18 Pt. I para. 3\(3\)](#); S.I. [1996/2402](#), [art. 3](#) (subject to transitional provisions and savings in [Sch.](#))

### 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](#)

### <sup>F13</sup>22 .....

#### Textual Amendments

- F13** [S. 22](#) repealed (1.4.1997) by [1996 c. 52, s. 227](#), [Sch. 19 Pt. VII](#); S.I. [1996/2959](#), [art. 3](#) (subject to transitional provision in [Sch. para. 2](#))

### 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,

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- (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.
- (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>F14</sup>(3) In exercising their functions under this section, a local housing authority [<sup>F15</sup>in Wales] 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

**F14** S. 24(3)(4) added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 162

**F15** Words in s. 24(3) inserted (18.11.2003) by Local Government Act 2003 (c. 26), ss. 92(1), 128(3); S.I. 2003/2938, art. 2(a) (subject to art. 8, Sch.)

## 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 [<sup>F16</sup>or an introductory 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—



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- (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.

#### Textual Amendments

**F16** Words in s. 25(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 3(b)

## 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>F17</sup> Management agreements*

#### Textual Amendments

**F17** Ss. 27, 27A, 27B and heading substituted for s. 27 and heading by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 10

## <sup>F18</sup>27 Management agreements.

- (1) A local housing authority may agree that another person shall exercise 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—

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- (a) “management agreement” means an agreement under subsection (1) or a sub-agreement, and
  - (b) “manager”, in relation to a management agreement, means a person by whom management functions are exercisable under the agreement.
- (3) A management agreement shall set out the terms on which the authority’s functions are exercisable by a manager.
- (4) An agreement under subsection (1) shall contain such provisions as may be prescribed by regulations made by the Secretary of State.
- (5) A management agreement may—
- (a) include provision authorising a manager, with the consent of the authority, to agree that another person shall exercise any management function exercisable by the manager under the agreement;
  - (b) where a body or association is a manager, provide that the management functions of the body or association under the agreement may be performed by a committee, sub-committee, officer or employee of the body or association.
- (6) Subject to subsection (7), the approval of the Secretary of State shall be required to—
- (a) the making of any management agreement;
  - (b) the variation of a provision of a management agreement, if the provision is specified, or is of a description specified, by the Secretary of State in giving approval to the making of a management agreement.
- (7) The Secretary of State may, in giving approval to the making of an agreement under subsection (1)—
- (a) specify a moratorium period and the circumstances in which it is to apply;
  - (b) specify circumstances in which his approval is not required to the making of a sub-agreement under the agreement.
- (8) If a moratorium period applies in relation to a management agreement—
- (a) during the moratorium period the approval of the Secretary of State is not required to the making of a sub-agreement under the agreement;
  - (b) any sub-agreement made under the agreement during the moratorium period without the approval of the Secretary of State is not valid unless it is approved by the Secretary of State immediately after the end of the moratorium period.
- (9) A moratorium period specified under subsection (7) must not exceed 6 months.
- (10) Where a sub-agreement has been made during a moratorium period without the approval of the Secretary of State, the Secretary of State may extend the moratorium period if he is satisfied that he will not give his approval to that sub-agreement immediately after the end of that period; and this subsection may apply more than once.
- (11) The approval of the Secretary of State to the making of an agreement under subsection (1) or to the variation of such an agreement may be given generally or to a particular local housing authority or description of local housing authority.
- (12) The approval of the Secretary of State under this section may be given—
- (a) in relation to a particular case or description of case;
  - (b) unconditionally or subject to conditions.

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- (13) Subject to subsection (15)—
- (a) anything done, or not done, by a manager in connection with the exercise (or purported exercise) of a relevant function shall be treated as done, or not done, by the authority;
  - (b) anything done, or not done, in relation to a manager in connection with the exercise (or purported exercise) of a relevant function shall be treated as done, or not done, in relation to the authority.
- (14) In subsection (13) “relevant function” means a management function of the authority exercisable by the manager under a management agreement.
- (15) Subsection (13) shall not apply—
- (a) to the extent that a management agreement provides otherwise as between the parties to it; or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or not done by the manager.
- (16) References in subsection (1) to the management functions of a local housing authority in relation to houses or land—
- (a) do not include such functions as may be prescribed by regulations made by the Secretary of State, but
  - (b) subject to that, include functions conferred by any statutory provision and the powers and duties of the authority as holder of an estate or interest in the houses or land in question.
- (17) 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.
- (18) In this section, “sub-agreement” means an agreement made by a manager and another person pursuant to a provision included in an agreement by virtue of subsection (5)(a).]

**Textual Amendments**  
**F18** S. 27 substituted (28.3.2003) by [S.I. 2003/940](#), [art. 2](#)

<sup>F19</sup>**27A** .....

**Textual Amendments**  
**F19** [Ss. 27A, 27AA](#) repealed (1.10.1996) by [1996 c. 52](#), [s. 227](#), [Sch. 19 Pt. X](#); [S.I. 1996/2402](#), [art. 3](#)  
(subject to transitional provisions and savings in [Sch.](#))

<sup>F20</sup>**27AA** .....

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### Textual Amendments

**F20** Ss. 27A, 27AA repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. X**; S.I. 1996/2402, **art. 3**  
(subject to transitional provisions and savings in **Sch.**)

## [<sup>F21</sup>27A] 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;
  - (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

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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
- (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 [<sup>F22</sup>regulations under section 27BA (consultation with respect to management)]
  - (ii) in the case of secure tenants, the provisions of section 105 (consultation on matters of housing management), <sup>F23</sup> . . .
  - (iii) <sup>F24</sup> . . . [<sup>F25</sup> and
  - (iv) in the case of introductory tenants, the provisions of section 137 of the Housing Act 1996 (consultation on matters of housing management).]

(8) In this section—

“arbitrator” means a member of a panel approved for the purposes of the regulations by the Secretary of State;

<sup>F26</sup>  
.....

“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

- F21** 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)
- F22** Words in s. 27AB(7)(b)(i) inserted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. 1 para. 3(5); S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)
- F23** Word in s. 27AB(7)(b)(ii) omitted (12.2.1997) by virtue of S.I. 1997/74, art. 2, Sch. para. 3(c)
- F24** Words in s. 27AB(7)(b)(iii) repealed (18.11.2003 for E. and 27.11.2003 for W.) by Local Government Act 2003 (c. 26), ss. 127(2), 128(5)(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 3(i)(i) (subject to art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. 1
- F25** S. 27AB(7)(b)(iv) and word preceding it inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 3(c)

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**F26** S. 27AB(8): definition of “associated” repealed (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), ss. 127(2), 128(6), [Sch. 8 Pt. 1](#); S.I. 2003/2938, [art. 3](#) (subject to [art. 8, Sch.](#)); S.I. 2003/3034, [art. 2\(1\)](#), Sch. 1 Pt. 1

## **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 <sup>F27</sup> . . . 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.
- (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.]

### **Textual Amendments**

**F27** Words in [s. 27B\(3\)](#) repealed (1.10.1998) by [1998 c. 38, s. 152, Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)

*[<sup>F28</sup> Consultation with respect to housing management]*

### **Textual Amendments**

**F28** [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>F29</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.

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- (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, 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).

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- (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**

**F29** 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>F30</sup> Proposals for co-operative management or ownership*

**Textual Amendments**

**F30** S. 27C and cross-heading inserted by **Housing and Planning Act 1986 (c. 63, SIF 61)**, **s. 11**

<sup>F31</sup>27C .....

**Textual Amendments**

**F31** S. 27C repealed (1.4.1994) by 1993 c. 28, ss. 132(2), 187(2), **Sch. 22**; S.I. 1994/935, **art. 3** (with transitional provisions in **art. 3**)

*Powers of county councils*

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

- (1) County councils [<sup>F32</sup>in England] 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—



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- (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.

**Textual Amendments**

**F32** Words in s. 28(1) inserted (1.4.1996) by 1994 c. 19, s. 22(2), Sch. 8 para. 5(6) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

**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; 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) ..... **F33**

**Textual Amendments**

**F33** 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.

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### *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>F34</sup> . . . , 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 [<sup>F35</sup>or an introductory 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 [<sup>F35</sup>and introductory tenancies], 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>M3</sup>Lands Clauses Consolidation Act 1845 (which require surplus land first to be offered to the original owner and to adjoining land-owners) do not apply to the sale by a local authority of land held by them for the purposes of this Part.

#### **Textual Amendments**

**F34** Words in s. 32(1) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)

**F35** Words in s. 33(2) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 3(d)**

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

**C3** 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)**.

**C4** S. 32(2) excluded by **Local Government Act 1988** (c. 9, SIF 81:1), **s. 26(5)(c)**

**C5** S. 32(4) applied by **Housing Act 1988** (c. 50, SIF 61), **s. 133(4)**

#### **Marginal Citations**

**M3** 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.

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- (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.
- (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>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 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>F37</sup>]

#### Textual Amendments

**F36** S. 34(4A)(4B) inserted (*retrospectively* 9.6.1988) by Housing Act 1988 (c. 50, SIF 61), s. 132(1)(2)(8)

**F37** 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)

**C6** S. 34(2)(b)(3) extended by Housing Act 1988 (c. 50, SIF 61), s. 133(3)(a)

**C7** S. 34(4A) extended by Housing Act 1988 (c. 50, SIF 61), s. 133(3)(a)

**C8** S. 34(4A) modified by Housing Act 1988 (c. 50, SIF 61), s. 133(3)(c)

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VALID FROM 01/12/2008

### **[<sup>F38</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;
  - (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

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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—

(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

**F38** 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>F39</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>F39</sup>one-third] for each complete year which has elapsed after the conveyance, grant or assignment and before the further disposal.

#### Textual Amendments

**F39** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. [2\(3\)](#)

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VALID FROM 18/01/2005

**[<sup>F40</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.
- (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**

**F40** 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.
- [<sup>F41</sup>(2) Subject to subsections (2A) and (2B), 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.
- (2A) The following, namely—
  - (a) any advance which is made otherwise than for the purpose mentioned in subsection (2)(b) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
  - (b) any further advance which is so secured,
 shall rank in priority to that charge if, and only if, the local authority by written notice served on the institution concerned gives their consent; and the local authority shall so give their consent if the purpose of the advance or further advance is an approved purpose.

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(2B) 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 any advance or further advance which—

- (a) is made to the purchaser by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the local authority shall serve such a notice if the purpose of the advance or further advance is an approved purpose.]

(3) <sup>F42</sup> .....

[<sup>F43</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—

- [<sup>F44</sup>an authorised deposit taker  
an authorised insurer]

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.

[<sup>F45</sup>(5) The approved purposes for the purposes of this section are—

- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
  - (i) the cost of any works to the house,
  - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
  - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and
- (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—
  - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
  - (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.

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

#### Textual Amendments

**F41** S. 36(2),(2A),(2B) substituted (11.10.1993) for s. 36(2) by 1993 c. 28, s. 133(1); S.I. 1993/2134, arts. 2, 4(b) (with Sch. 1 para. 7).

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- F42** S. 36(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)
- F43** 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)
- F44** Words in s. 36(4) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 299(2)
- F45** S. 36(5)(6) inserted (11.10.1993) by 1993 c. 28, s. 133(2); S.I. 1993/2134, arts. 2, 4(b) (with Sch. 1 para. 7).

VALID FROM 18/01/2005

### **[<sup>F46</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

**F46** 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

**F46** 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 [<sup>F47</sup>section 82 of the Countryside and Rights of Way Act 2000] as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 (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>F48</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>F49</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>F50</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 [F51]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].

[F52(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.

[F53(5A) 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 a covenant of the kind mentioned in subsection (1), he must enter in the register a restriction reflecting the limitation imposed by the covenant]

- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.

#### Textual Amendments

**F47** Words in s. 37(1)(b) substituted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 93, **Sch. 15 Pt.**

**I para. 8** (with s. 84(4)-(6)), S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

**F48** “(a)” inserted by Housing Act 1988 (c. 50, SIF 61), **s. 125(2)(6)**

**F49** Word “and” and s. 37(2)(b) added by Housing Act 1988 (c. 50, SIF 61), **s. 125(2)(6)**

**F50** Words inserted by Housing Act 1988 (c. 50, SIF 61), **s. 125(3)(6)**

**F51** Words and s. 37(4)(a)(b) added by Housing Act 1988 (c. 50, SIF 61), **s. 125(4)(6)**

**F52** S. 37(4A) inserted by Housing Act 1988 (c. 50, SIF 61), **s. 125(5)(6)**

**F53** S. 37(5A) substituted (13.10.2003) for words in s. 37(5) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 18(2) (with s. 129); S.I. 2003/1725, **art. 2(1)**

## 38 Relevant disposals.

- (1) A disposal, whether of the whole or 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.

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### 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));
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - [<sup>F54</sup>(c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (3);]
  - (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.
- [<sup>F55</sup>(3) The orders referred to in subsection (1)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
  - (b) section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate),
  - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
  - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).]

#### Textual Amendments

**F54** S. 39(1)(c) substituted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. I para. 8(2)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

**F55** S. 39(3) added (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. I para. 8(3)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

VALID FROM 18/01/2005

#### [<sup>F56</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.

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- (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
  - (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

**F56** 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.

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#### 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.

#### 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>F57</sup> . . . , of a house belonging to the authority—
  - (a) which is let on a secure tenancy [<sup>F58</sup> or an introductory 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>F59</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

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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>F60</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.

[<sup>F61</sup>(5A) References in this section and in section 44 to a local authority shall include references to a National Park authority.]

#### Textual Amendments

- F57** Words in s. 43(1) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)
- F58** Words in s. 43(1)(a) inserted (12.2.1997) by S.I. 1997/74, **art. 2, Sch. para. 3(e)**
- F59** S. 43(4A)(4B) inserted (*retrospectively* 9.6.1988) by Housing Act 1988 (c. 50, SIF 61), **s. 132(1)(2)(8)**
- F60** S. 43(4B) repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(2), **Sch. 12 Pt. I**
- F61** S. 43(5A) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 24(1)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2**

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

- C9** 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**
- C10** 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, s. 39, **Sch. 13 para. 21(a)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)
- C11** Ss. 43, 44 modified (1.4.1995) by S.I. 1995/401, **art. 18, Sch. para. 8(a)**
- C12** S. 43(1) excluded by Local Government Act 1988 (c. 9, SIF 81:1), **s. 26(5)(c)**
- C13** S. 43(2)(b)(3) extended by Housing Act 1988 (c. 50, SIF 61), **s. 133(3)(b)**
- C14** S. 43(4A) extended by Housing Act 1988 (c. 50, SIF 81:1), **s. 133(3)(b)**
- C15** S. 43(4A) modified by Housing Act 1988 (c. 50, SIF 61), **s. 133(c)**
- C16** 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.

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- (2) Subsection (1) has effect notwithstanding section 29 of the <sup>M4</sup>Town and Country Planning Act 1959 and section 128(2) of the <sup>M5</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)**

- C17** 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**
- C18** 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))
- C19** Ss. 43, 44 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(a)**

**Marginal Citations**

- M4** 1959 c. 53.  
**M5** 1972 c. 70.

*Restriction on service charges*

**[<sup>F62</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>F63</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>F64</sup>

- (0) <sup>F64</sup> “public sector authority” means—
- a local authority,
- [<sup>F65</sup>a National Park authority]
- a new town corporation,
- an urban development corporation,
- [<sup>F66</sup>a housing action trust]
- <sup>F67</sup> . . .
- [<sup>F68</sup>Housing Corporation or Scottish Homes]
- a [<sup>F69</sup>registered social landlord].

<sup>F70</sup>(2A) [ In subsection (1)(a) “public sector authority” also includes the Secretary of State if the freehold has been conveyed by him (or Housing for Wales) under section 90 of the <sup>M6</sup>Housing Associations Act 1985.]

- (3) The following provisions—



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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

- F62** 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)**
- F63** 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)**
- F64** Words repealed by [Landlord and Tenant Act 1987 \(c. 31, SIF 75:1\)](#), s. 61(1)(2), Sch. 4 para. 4(b), **Sch. 5**
- F65** Words in s. 45(2)(b) inserted (23.11.1995) by [1995 c. 25, s. 78](#), **Sch. 10 para. 24(2)**, (with ss. 7(6), 115, 117, Sch. 8 para. 7); [S.I. 1995/2950](#), **art. 2(1)**
- F66** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 79(11)**
- F67** Words in s. 45(2) repealed (1.10.1998) by [1998 c. 38, s. 152](#), **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art. 4**
- F68** Words in s. 45(2) substituted (1.11.1998) by [1998 c. 38, s. 140](#), **Sch. 16 para. 8(2)** (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art. 5**
- F69** Words in s. 45(2) substituted (1.10.1996) by [S.I. 1996/2325](#), art. 5(1), **Sch. 2 para. 14(4)**
- F70** S. 45(2A) inserted (1.11.1998) by [1998 c. 38, s. 140](#), **Sch. 16 para. 8(3)** (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art. 5**

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

- C20** 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))
- 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. 5(1), **Sch. 3 para. 5(3)**
- C22** Ss. 45-51 modified (1.4.1995) by [S.I. 1995/401](#), art. 18, **Sch. para. 8(b)**
- C23** 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)**

#### Marginal Citations

- M6** [1985 c. 69](#).

<sup>F71</sup> 46 .....

#### Textual Amendments

- F71** 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>F72</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—

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- (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 [<sup>F73</sup>Part I of the Arbitration Act 1996]) 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.
- [ Where relevant costs are incurred or to be incurred on the carrying out of works
- <sup>F74</sup>(4) in respect of which a grant has been or is to be paid under [<sup>F75</sup>section 523 of the Housing Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants, &c. for renewal of private sector housing) or any corresponding earlier enactment], 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

- F72** 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\(2\)](#)
- F73** Words in [s. 47\(3\)](#) substituted (31.1.1997) by [1996 c. 23, s. 107\(1\)](#), [Sch. 3 para. 42](#) (with [s. 81\(2\)](#)); S.I. 1996/3146, [arts. 2, 4](#) (with transitional provisions in [Sch. 2](#))
- F74** [S. 47\(4\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [s. 24\(1\)](#), [Sch. 5 Pt. I para. 9\(3\)](#)
- F75** Words in [s. 47\(4\)](#) substituted (17.12.1996) by [1996 c. 53, s. 103](#), [Sch. 1 para. 2](#); S.I. 1996/2842, [art. 3](#)

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

- C24** [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](#)
- C25** [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\(2\)](#))
- C26** [Ss. 45–51](#) modified (1.4.1995) by S.I. 1995/401, [art. 18](#), [Sch. para. 8\(b\)](#)

#### [<sup>F76</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

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- (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 which a grant has been or is to be paid under <sup>F77</sup>(3A) of <sup>F78</sup>section 523 of the Housing Act 1985 (assistance for provision of separate service pipe for water supply) or any provision of Chapter I of Part I of the Housing Grants, Construction and Regeneration Act 1996 (grants for renewal of private sector housing) or any corresponding earlier enactment].
- (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 or make the facilities available more than once for the same house and for the same period.]

#### Textual Amendments

- F76** 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)**
- F77** S. 48(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), **Sch. 5 Pt. I para. 9(4)**
- F78** Words in s. 48(3A) substituted (17.12.1996) by 1996 c. 53, s. 103, **Sch. 1 para. 3**; S.I. 1996/2842, **art. 3**

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

- C27** 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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- C28** 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))
- C29** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

<sup>F79</sup>**49** .....

#### Textual Amendments

- F79** 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>F80</sup>**50** Offences.

- (1) If a person fails without reasonable excuse to perform a duty imposed on him by section 48 . . . <sup>F81</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 [<sup>F82</sup>or],  
a new town corporation, <sup>F83</sup> . . .  
<sup>F83</sup> . . .]

#### Textual Amendments

- F80** 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)**
- F81** Words repealed by Landlord and Tenant Act 1987 (c. 31, SIF 75:1), s. 61(1)(2), Sch. 4 para. 6, **Sch. 5**
- F82** Word in s. 50(2) inserted (1.10.1998) by 1998 c. 38, s. 129, **Sch. 15 para. 8** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F83** Words in s. 50(2) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

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

- C30** 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**
- C31** 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))
- C32** Ss. 45-51 modified (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 8(b)**

#### [<sup>F84</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.

[ a person has the necessary qualification only if he is eligible for appointment as a <sup>F85</sup>(2) company auditor under section 25 of the Companies Act 1989.]

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- (4) The following are disqualified from acting—
- <sup>F86</sup>(a) [ where the payee is a company, the payee or any associated company of the payee;]
  - (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 [<sup>F87</sup>subsection (4)(a) and (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 [<sup>F88</sup>or a new town corporation]—
- (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

- F84** 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\(2\)](#)
- F85** S. 51(2) substituted (1.10.1991) for s. 51(2)(3) by [S.I. 1991/1997, reg. 2, Sch. para. 58\(a\)](#)
- F86** S. 51(4)(a) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para. 58\(b\)](#)
- F87** Words in s. 51(5) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para. 58\(c\)](#)
- F88** Words in s. 51(6) substituted (1.10.1998) by [1998 c. 38, s. 129, Sch. 15 para. 9](#) (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244, art. 4](#)

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

- C33** 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))
- C34** Ss. 45-51 modified (1.4.1995) by [S.I. 1995/401, art. 18, Sch. para. 8\(b\)](#)
- C35** 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](#)

### 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>F89</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.

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#### Textual Amendments

**F89** 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>M7</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>M8</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

**M7** 1944 c. 36.

**M8** 1957 c. 56.

### *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>F90</sup>and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf].

#### Textual Amendments

**F90** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 64](#)

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## 55 Penalty for obstruction.

- (1) It is a summary offence [<sup>F91</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>F92</sup>level 3] on the standard scale.

### Textual Amendments

- F91** Word inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 65\(1\)](#)
- F92** 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;

[<sup>F93</sup>“introductory tenancy” has the same meaning as in Chapter I of Part V of the Housing Act 1996;]

“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—

- (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.

### Textual Amendments

- F93** Definition “introductory tenancy” in s. 56 inserted (12.2.1997) by [S.I. 1997/74, art. 2, Sch. para. 3\(f\)](#)

## 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

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F94	F94
...	...
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
[ <sup>F95</sup> introductory tenancy]	[ <sup>F95</sup> section 56]
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>F96</sup> section 621A]
qualified accountant (for the purposes of section 48(3))	section 51
[ <sup>F97</sup> registered social landlord]	[ <sup>F97</sup> section 5(4) and (5).]
relevant costs (in relation to a service charge)	[ <sup>F96</sup> section 621A] (2), (3)
relevant disposal	section 38 (and see section 452(3))
secure tenancy	section 79
service charge	[ <sup>F96</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



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urban development corporation

section 4(d)

#### Textual Amendments

- F94** Entry in s. 57 repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 9, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F95** Entry in s. 57 inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 3(g)**
- F96** Words substituted by **Housing and Planning Act 1986** (c. 63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 25**
- F97** Entry in s. 57 substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 14(5)**

**Status:**

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**Changes to legislation:**

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