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Housing Act 1985

1985 CHAPTER 68

PART V

THE RIGHT TO BUY

Completion of purchase in pursuance of right to buy

138 Duty of landlord to convey freehold or grant lease.

- (1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant ^{F1} . . . have been agreed or determined, the landlord shall make to the tenant—
- (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
 - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,

in accordance with the following provisions of this Part.

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

Textual Amendments

- F1** Words in s. 138(1) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in **Sch. 1** para. 4(1)).

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VALID FROM 18/01/2005

[^{F2}138A Effect of initial demolition notice served before completion

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

Textual Amendments

F2 S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

VALID FROM 18/01/2005

138B Effect of final demolition notice served before completion

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

Textual Amendments

F2 S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss.183(2)(4)**, 270(3)(a)

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VALID FROM 18/01/2005

138C Compensation where demolition notice served

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

Textual Amendments

F2 S. 138A-138C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), [ss.183\(2\)\(4\)](#), 270(3)(a)

139 Terms and effect of conveyance or grant and mortgage.

- (1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.
- (2) The secure tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to buy; and if there is then a subtenancy section 139 of the ^{M1}Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

^{F3}(3)

Textual Amendments

F3 S. 139(3) repealed (11.10.1993) by [1993 c. 28](#), s. 187(2), [Sch. 22](#); S.I. 1993/2134, arts. 2, 4(b), [Sch. 2](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

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Marginal Citations

M1 1925 c. 20.

140 Landlord’s first notice to complete.

- (1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—
 - (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
 - (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,
 and informing the tenant of the effect of this section and of section 141(1), (2) and (4) landlord’s second notice to complete).
- (2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.
- [^{F4}(3) A notice under this section shall not be served earlier than twelve months after—
 - (a) the service of the landlord’s notice under section 125 (notice of purchase price and other matters), or
 - (b) where a notice has been served under section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms), the service of that notice.]
 - (4) A notice under this section shall not be served if—
 - (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
 - (b) proceedings for the determination of any other relevant matter have not been disposed of, or
 - (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
 - (5) In this section “relevant matters” means matters relating to the grant ^{F5}. . .

Textual Amendments

- F4** S. 140(3) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 12**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).
- F5** Words in s. 140(5) repealed (11.10.1993) by 1993 c. 28, s. 187(2), **Sch. 22**; S.I. 1993/2134, **arts. 2, 4(b), Sch. 2** (with saving in **Sch. 1 para. 4(1)**).

141 Landlord’s second notice to complete.

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

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

^{F6}142

Textual Amendments

F6 S. 142 amended and repealed (11.10.1993) by 1993 c. 28, ss. 107(b), 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4(b), **Sch. 2** (with saving in Sch. 1 paras. 4(1), 10).

VALID FROM 18/11/2004

[^{F7}142A Termination of the right to acquire on rent to mortgage terms

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

Textual Amendments

F7 S. 142A inserted (18.11.2004) by Housing Act 2004 (c. 34), s. 190(1)

Status:

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