



Housing Act 1985

1985 CHAPTER 68

PART V **E+W**

THE RIGHT TO BUY

Provisions affecting future disposals

155 Repayment of discount on early disposal. **E+W**

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to buy, there is no discount) a covenant binding on the secure tenant and his successors in title to the following effect.
- (2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay to the landlord on demand, if within a period of [^{F1}three years] there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the secure tenant was entitled, reduced by [^{F1}one-third] for each complete year which has elapsed after the conveyance or grant and before the disposal.
- (3) In the case of a grant in pursuance of the right to be granted a shared ownership lease, the covenant shall be to pay to the landlord on demand, if within a period of [^{F1}three-years] commencing with the acquisition by the tenant of his initial share or the acquisition by him of an additional share there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the aggregate of—
 - (a) the effective discount (if any) to which the tenant was entitled on the acquisition of his initial share, and
 - (b) for each additional share, the effective discount (if any) to which the tenant was entitled on the acquisition of that share,reduced, in each case, by [^{F1}one-third] for each complete year which has elapsed after the acquisition and before the disposal.

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- [^{F2}(3A) Where a secure tenant has served on his landlord an operative notice of delay, as defined in section 153A,—
- (a) the three years referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section; and
 - (b) any reference in subsection (3) (other than paragraph (a) thereof) to the acquisition of the tenant’s initial share shall be construed as a reference to a date which precedes that acquisition by the period referred to in paragraph (a) of this subsection.]

Textual Amendments

- F1** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 2\(3\)](#)
F2 [S. 155\(3A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(1\), Sch. 17 para. 41](#)

VALID FROM 18/01/2005

[^{F3}155A **Amount of discount which may be demanded by landlord: right to buy** **E** **+W**

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

Textual Amendments

- F3** Ss. 155A, 155B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\), ss. 185\(4\)\(5\), 270\(3\)](#)

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VALID FROM 18/01/2005

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

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

Textual Amendments

F3 Ss. 155A, 155B inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 185(4)(5), 270(3)

VALID FROM 18/01/2005

[^{F4}155C Increase attributable to home improvements E+W

- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
 - (a) by the person by whom the disposal is, or is to be, made, and
 - (b) after the conveyance or grant and before the disposal,shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
 - (a) it is reasonably practicable for him to do so; and
 - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.]

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Textual Amendments

F4 S. 155C inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 186(1), 270(3)**

156 Liability to repay is a charge on the premises. **E+W**

- (1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) The charge has priority immediately after any legal charge securing an amount—
 - (a) left outstanding by the tenant in exercising the right to buy or the right to be granted a shared ownership lease, or
 - (b) advanced to him by an approved lending institution for the purpose of enabling him to exercise that right, or
 - (c) further advanced to him by that institution;
 but the landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to a legal charge securing an amount advanced or further advanced to the tenant by that institution
- (3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the ^{M1}Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.
- [^{F5}(3A) The covenant required by section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the tenant, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.]
- (4) The approved lending institutions for the purposes of this section are—
 - the [^{F6}Corporation],
 - a building society,
 - a bank
 - a trustee savings bank,
 - an insurance company,
 - a friendly society,
 and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.
- (5) An order under subsection (4)—
 - (a) shall be made by statutory instrument, and
 - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.
- (6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which,

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

Textual Amendments

- F5** S. 156(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), [s. 24\(1\)\(a\)](#), Sch. 5 Pt. I para. 1(2)(5)
- F6** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 17 Pt. II para. 106](#)

Marginal Citations

- M1** 1925 c. 21.

VALID FROM 18/01/2005

[^{F7}156A Right of first refusal for landlord etc. E+W

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

This is subject to subsection (8).

- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (3) In subsection (2) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance or grant is made.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, or
 - (b) such other person as is determined in accordance with the regulations,
- a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158.
- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the dwelling-house; and
 - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;
 - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
 - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having

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regard to any prescribed matters, to be a more appropriate person to accept the offer;

- (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;
- (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
- (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
- (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market;
- (h) for the manner in which any offer, acceptance or notification is to be communicated.

(7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title.

Nothing in that subsection affects the generality of subsection (4).

(8) In a case to which section 157(1) applies—

- (a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but
- (b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.

(9) Consent may be given in relation to—

- (a) a particular disposal, or
- (b) disposals by a particular landlord or disposals by landlords generally, and may, in any case, be given subject to conditions.

(10) Regulations under this section—

- (a) may make different provision with respect to different cases or descriptions of case; and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.

(12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.]

Textual Amendments

F7 S. 156A inserted (18.1.2005) by *Housing Act 2004 (c. 34)*, ss. 188(1)(5)(6), 270(3)

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157 Restriction on disposal of dwelling-houses in National Parks, etc. **E+W**

- (1) Where in pursuance of this Part a conveyance or grant is executed by a local authority, the Development Board for Rural Wales or a housing association (“the landlord”) of a dwelling-house situated in—
 - (a) a National Park,
 - (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
 - (c) an area designated by order of the Secretary of State as a rural area,the conveyance or grant may contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.
- (2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his
 - ^{F8}(a) , there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3)^{F9}and—
 - (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house].
- (3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent ^{F10}or, in the case of a disposal by way of tenancy or licence, preceding the disposal]—
 - (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
 - (b) had his only or principal home in such a region;or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.
- (4) If the Secretary of State or, where the landlord is a housing association, the ^{F11}Corporation], consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—
 - (a) the tenant (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
 - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Secretary of State or the ^{F11}Corporation] under subsection (4) may be given subject to such conditions as he or, as the case may be, the Corporation, thinks fit.
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void ^{F12}and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—

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

[^{F13}(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.]

(7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application therefor had been made under section 58 of the ^{M3}Land Registration Act 1925.

(8) An order under this section—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F8** “(a)” inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(2\)\(6\)](#)
- F9** “and” and s. 157(2)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(2\)\(6\)](#)
- F10** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(3\)\(6\)](#)
- F11** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\), s. 140\(2\), Sch. 17 Pt. II para. 106](#)
- F12** Words beginning “and, so far” and s. 157(6)(a)(b) added by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(4\)\(6\)](#)
- F13** [S.157\(6A\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 126\(5\)\(6\)](#)

Marginal Citations

- M2** 1949 c. 97.
- M3** 1925 c. 21.

158 Consideration for reconveyance or surrender under s. 157. E+W

- (1) The consideration for the offer by a tenant, referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord shall be such amount as may be agreed between the parties or determined by the district valuer as being the amount which is to be taken as the value of the dwelling-house at the time the offer is made.
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—
- (a) the covenant required by section 155 (repayment of discount on early disposal), and
 - (b) any covenant required by paragraph 6 of Schedule 8 (payment for outstanding share on disposal of dwelling-house subject to shared ownership lease),
- would be discharged by the vendor.
- (3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced [^{F14}, subject to subsection (4),] by such amount (if any) as, on a disposal made at the

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time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

[^{F15}(4) Where there is a charge on the dwelling-house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer to reconvey or surrender.]

Textual Amendments

F14 Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), **Sch. 5 Pt. I para. 1(3)** (5)

F15 [S. 158\(4\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1)(a), Sch. 5 Pt. I para. 1(3) (5)

159 Relevant disposals. **E+W**

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

160 Exempted disposals. **E+W**

- (1) A disposal is an exempted disposal for the purposes of this Part if—
 - (a) it is a disposal of the whole of the dwelling-house and a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
 - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
 - (c) it is a disposal of the whole of the dwelling-house in pursuance of an order made under section 24 of the ^{M4}Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the ^{M5}Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
 - (d) it is a compulsory disposal (as defined in section 161); or
 - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
 - (a) he is the person, or one of the persons, by whom the disposal is made,
 - (b) he is the spouse or a former spouse of that person, or one of those persons, or

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- (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.

Marginal Citations

- M4 1973 c. 18.
M5 1975 c. 63.

161 Meaning of “compulsory disposal”. **E+W**

In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

162 Exempted disposals which end liability under covenants. **E+W**

Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house)—

- (a) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

163 Treatment of options. **E+W**

- (1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 157(2) (requirement of consent to disposal of dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

VALID FROM 18/01/2005

^{F16}163A Treatment of deferred resale agreements for purposes of section 155 **E+W**

- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
 - (a) the time when the agreement is entered into, or

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- (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person—
 - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,
 - (b) which is made before the end of the discount repayment period, and
 - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
 - (a) whether or not the date on which the disposal is to take place is specified in the agreement, and
 - (b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
 - (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
 - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
 - (a) may make different provision with respect to different cases or descriptions of case; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
 - “agreement” includes arrangement;
 - “the discount repayment period” means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004).]

Textual Amendments

F16 S. 163A inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), ss. 187, 270(3)

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