



# Housing Act 1985

## 1985 CHAPTER 68

### PART V **E+W**

#### THE RIGHT TO BUY

##### *Supplementary provisions*

#### 176 Notices. **E+W**

- (1) The Secretary of State may by regulations prescribe the form of any notice under this Part and the particulars to be contained in the notice.
- (2) Where the form of, and the particulars to be contained in, a notice under this Part are so prescribed, a tenant who proposes to claim, or has claimed, to exercise the right to buy may request the landlord to supply him with a form for use in giving such notice; and the landlord shall do so within seven days of the request.
- (3) A notice under this Part may be served by sending it by post.
- (4) Where the landlord is a housing association, a notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the tenant usually deals.
- (5) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument.

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

- C1** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

*Status: Point in time view as at 11/10/1993.*

*Changes to legislation: Housing Act 1985, Cross Heading: Supplementary provisions is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 177 Errors and omissions in notices. **E+W**

- (1) A notice served by a tenant under this Part is not invalidated by an error in, or omission from, the particulars which are required by regulations under section 176 to be contained in the notice.
- (2) Where as a result of such an error or omission—
- (a) the landlord has mistakenly admitted or denied the right to buy or the [<sup>F1</sup>right to acquire on rent to mortgage terms] in a notice under section 124 or 146, or
  - (b) the landlord <sup>F2</sup> . . . has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions mentioned in sub-section (3) and has stated that opinion in the notice,
- the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the propose of securing that all parties are, as nearly as may be, in the same position as they would have been if the mistake had not been made.
- (3) The provisions referred to in subsection (2)(b) are—
- section 125 (notice of purchase price, etc.),  
<sup>F3</sup> . . .  
[<sup>F4</sup>section 146 (landlord’s notice admitting or denying right to acquire on rent to mortgage terms).]  
<sup>F3</sup> . . .
- (4) Subsection (2) does not apply where the tenant has exercised the right to which the notice relates before the parties become aware of the mistake.

### Textual Amendments

- F1** Words in s. 177(2) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 20(1)**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).
- F2** Words in s. 177(2)(b) 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)**).
- F3** Entries in s. 177(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)**).
- F4** Entry in s. 177(3) substituted for entries (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 20(2)**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

### Modifications etc. (not altering text)

- C2** Ss. 176, 177, 180, 181 applied by **Housing and Planning Act 1986** (c. 63, SIF 61), s. 24(1), **Sch. 5 Pt. I para. 5(6)**
- C3** S. 177 excluded by **Housing Act 1988** (c. 50, SIF 61), **ss. 122(4), 123(4)**

## [<sup>F5</sup>178 Costs. **E+W**

An agreement between the landlord and a tenant claiming to exercise—

- (a) the right to buy,
- (b) the right to acquire on rent to mortgage terms, or
- (c) any such right as is mentioned in paragraph 2(1) or 6(1) of Schedule 6A (redemption of landlord’s share: right to make final or interim payment),

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is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant's exercise of that right.]

#### Textual Amendments

**F5** S. 178 substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 21**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

### 179 Provisions restricting right to buy, etc. of no effect. **E+W**

(1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—

- (a) the grant of a lease in pursuance of the right to buy or the [<sup>F6</sup>right to acquire on rent to mortgage terms], or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted

or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.

(2) Where a dwelling-house let on a secure tenancy is land held—

- (a) for the purposes of section 164 of the <sup>M1</sup>Public Health Act 1875 (pleasure grounds), or
- (b) in accordance with section 10 of the <sup>M2</sup>Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),

then, for the purposes of this Part, the dwelling-house shall be deemed to be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with section 164 or, as the case may be, section 10.

#### Textual Amendments

**F6** Words in s. 179(1) substituted (11.10.1993) by 1993 c. 28, s. 187(1) **Sch. 21 para. 22**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

#### Marginal Citations

**M1** 1875 c. 55.  
**M2** 1906 c. 25.

### 180 Statutory declarations. **E+W**

A landlord, <sup>F7</sup> . . . or the Secretary of State may, if the landlord, <sup>F7</sup> . . . or Secretary of State thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

#### Textual Amendments

**F7** Words in s. 180 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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**Modifications etc. (not altering text)**

**C4** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

**181 Jurisdiction of county court. E+W**

- (1) A county court has jurisdiction—
  - (a) to entertain any proceedings brought under this Part, and
  - (b) to determine any question arising under this Part or under [<sup>F8</sup>a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms]; but subject to sections 128 and 158 <sup>F9</sup>. . . (which provide for matters of valuation to be determined by the district valuer).
- (2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.
- (3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.
- (4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—
  - (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
  - (b) for the conduct of proceedings in private.
- (5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F8** Words in s. 181(1) substituted (11.10.1993) by [1993 c. 28, s. 187\(1\)](#), [Sch. 21 para. 23](#); S.I. 1993/2134, [arts. 2, 4\(b\)](#) (with saving in [Sch. 1 para. 4\(1\)](#)).

**F9** Words in s. 181(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\(1\)](#)).

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

**C5** Ss. 176, 177, 180, 181 applied by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(1), [Sch. 5 Pt. I para. 5\(6\)](#)

**182 Power to repeal or amend local Acts. E+W**

- (1) The Secretary of State may by order repeal or amend a provision of a local Act passed before 8th August 1980 where it appears to him that the provision is inconsistent with a provision of this Part relating to the right to buy <sup>F10</sup>. . .
- (2) Before making an order under this section the Secretary of State shall consult any local housing authority appearing to him to be concerned.
- (3) An order made under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State considers appropriate.

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

#### Textual Amendments

**F10** Words in s. 182(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)).

### 183 Meaning of “house”, “flat” and “dwelling-house”. **E+W**

- (1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.
- (2) A dwelling-house is a house if, and only if, it (or so much of its as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—
  - (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
  - (b) where a building is divided vertically, the units into which it is divided may be houses;
  - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) A dwelling-house which is not a house is a flat.

### 184 Land let with or used for purposes of dwelling-house. **E+W**

- (1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the <sup>M3</sup>General Rate Act 1967) exceeding two acres.
- (2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—
  - (a) the tenant, by a written notice served on the landlord at any time before he exercises the right to buy or the <sup>F11</sup>right to acquire on rent to mortgage terms], requires the land to be included in the dwelling-house, and
  - (b) it is reasonable in all the circumstances for the land to be so included.
- (3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to buy or the <sup>F11</sup>right to acquire on rent to mortgage terms].
- (4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord’s notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under

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subsection (2) had been served or withdrawn before the service of the notice under section 125.

#### Textual Amendments

**F11** Words in s. 184(2)(3) substituted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 24**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in **Sch. 1 para. 4(1)**).

#### Marginal Citations

**M3** 1967 c. 9.

### 185 Meaning of “secure tenancy” and “secure tenant”. **E+W**

- (1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the <sup>M4</sup>Housing Act 1980 and Part I of the <sup>M5</sup>Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.
- (2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—
- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
  - (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

#### Marginal Citations

**M4** 1980 c. 51.

**M5** 1984 c. 29.

### 186 Members of a person’s family. **E+W**

- (1) A person is a member of another’s family within the meaning of this Part if—
- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
  - (b) he is that person’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (2) For the purposes of subsection (1)(b)—
- (a) a relationship by marriage shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
  - (c) the stepchild of a person shall be treated as his child, and
  - (d) an illegitimate child shall be treated as as the legitimate child of his mother and reputed father.

*Status: Point in time view as at 11/10/1993.*

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

C6 S. 186 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 79(13), [Sch. 11 para. 4\(3\)](#)

### 187 Minor definitions. **E+W**

In this Part—

“improvement” means [<sup>F12</sup>, in relation to a dwelling house,] any alteration in, or addition to, [<sup>F13</sup>the dwelling-house] and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to [<sup>F13</sup>the dwelling-house],
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration;

[<sup>F14</sup>and shall be similarly construed in relation to any other building or land;]

[<sup>F15</sup>“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);]

“long tenancy” means—

- (a) a long tenancy within the meaning of part IV,
- (b) [<sup>F16</sup>a tenancy falling within paragraph 1 of Schedule 1 to the <sup>M6</sup>Tenants’ Rights, Etc. (Scotland) Act 1980, or]
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the <sup>M7</sup>Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly;

<sup>F17</sup>  
...

#### Textual Amendments

**F12** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 30\(2\)\(a\)](#)

**F13** Words substituted by [Housing and Planning Act 1986 \(c.63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 30\(2\)\(b\)](#)

**F14** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 30\(2\)\(c\)](#)

**F15** Definition inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), [Sch. 5 Pt. II para. 30\(3\)](#)

**F16** By [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2)(3), [Sch. 23 para. 30\(2\)](#), [Sch. 24](#) (which by s. 340(3) is expressed to extend to Scotland only) it is provided that in s. 187, in the definition of “long tenancy”, paragraph (b) shall cease to have effect (S.)

**F17** Definition in s. 187 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\(1\)](#)).

#### Marginal Citations

**M6** 1980 c. 52.

**M7** [S.I. 1983/1113 \(N.I. 15\)](#).

*Status: Point in time view as at 11/10/1993.*

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## 188 Index of defined expressions: Part V **E+W**

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):—

F18	F18
...	...
bank	section 622
building society	section 622
cemetery	section 622
charity	section 662
compulsory disposal	section 161
co-operative housing association	section 5(2)
[ <sup>F19</sup> the Corporation]	[ <sup>F19</sup> section 6A]
[ <sup>F20</sup> disposal and instrument effecting disposal (in Schedule 9A)]	[ <sup>F20</sup> paragraph 10 of Schedule]
[ F21	[ F21
district valuer]	section 622 ]
dwelling-house	sections 183 and 184
F18	F18
...	...
exempted disposal	section 160
family (member of)	section 186
[ F21	[ F21
final payment]	paragraph 1 of Schedule 6A]
flat	section 183
[ <sup>F20</sup> former landlord and former secure tenant (in relation to a qualifying disposal)]	[ <sup>F20</sup> section 171A(2)(c)]
friendly society	section 622
F18	F18
...	...
house	section 183
housing association	section 5(1)
housing trust	section 6
improvement	section 187
[ <sup>F20</sup> improvement contribution]	[ <sup>F20</sup> section 187]
incumbrances	paragraph 7 of Schedule 6



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[ F21	initial payment and interim payment]	[ F21	section 143B and paragraph 6 of Schedule 6A]
F18	...	F18	...
	insurance company		section 622
[ F21	landlord's share]	[ F21	section 148 and paragraph 7 of Schedule 6A ]
	lease		section 621
	local authority		section 4(e)
	local housing authority		section 1, 2(2)
	long tenancy (and long lease)		section 187
[ F21	minimum initial payment and maximum initial payment]	[ F21	section 143B ]
	new town corporation		section 4(b)
F18	...	F18	...
[ F21	prescribed]	[ F21	section 614]
[ <sup>F20</sup>	preserved right to buy]	[ <sup>F20</sup>	section 171A(2)(a)]
	public sector tenancy (and public sector tenant)		paragraphs 6 to 10 of Schedule 4
	purchase price		section 126
[ <sup>F20</sup>	qualifying disposal (in relation to the preserved right to buy)]	[ <sup>F20</sup>	section 171A(2)(b)]
[ <sup>F20</sup>	qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)]	[ <sup>F20</sup>	section 171B(1)]
[ <sup>F20</sup>	reference period (for purposes of s. 125A or 125B)]	[ <sup>F20</sup>	section 125C]
	registered (in relation a housing association)		section 5(4)
	regular armed forces of the Crown		section 622
	relevant disposal		section 159 (and see section 452(3))
	relevant time		section 122(2)
F18		F18	

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<p>...</p> <p>[ F21</p> <p>right to acquire on rent to mortgage terms]</p> <p>right to buy</p> <p>F18</p> <p>...</p> <p>F18</p> <p>...</p> <p>secure tenancy and secure tenant [F20service charge]</p> <p>tenant's incumbrance</p> <p>F18</p> <p>...</p> <p>trustee savings bank</p> <p>urban development corporation</p>	<p>...</p> <p>[ F21</p> <p>section 143]</p> <p>section 118(1)</p> <p>F18</p> <p>...</p> <p>F18</p> <p>...</p> <p>sections 79 and 185</p> <p>[F20section 621A]</p> <p>paragraph 7 of Schedule 6</p> <p>F18</p> <p>...</p> <p>section 622</p> <p>section 4(d)</p>
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#### Textual Amendments

- F18** Entries in s. 188 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)).
- F19** Entry inserted by **Housing Act 1988** (c.50, SIF 61), s. 140(1), **Sch. 17 Pt. II para. 110**
- F20** Entries in s. 188 inserted (17.8.1992) by **Housing and Planning Act 1986** (c. 63, SIF 61), s. 24(2), **Sch. 5 Pt. II para. 31**; S.I. 1992/1753, **art. 2(2)**
- F21** Entries in s. 188 inserted (11.10.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 25**; S.I. 1993/2134, **arts. 2, 4(b)** (with saving in Sch. 1 para. 4(1)).

**Status:**

Point in time view as at 11/10/1993.

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