



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART III

RIGHTS OF PUBLIC SECTOR TENANTS

Right to buy

61 Secure tenant's right to purchase

- (1) Notwithstanding anything contained in any agreement, a tenant of a house to which this section applies (or such one or more of joint tenants as may be agreed between them) shall, subject to this Part, have the right to purchase the house at a price fixed under section 62.
- (2) This section applies to every house let under a secure tenancy where—
 - (a) the landlord is either—
 - ^{F1}(i) a local authority, or a joint board or joint committee of two or more local authorities, or the common good of a local authority or any trust under the control of a local authority; or
[Scottish Water;]
 - ^{F2}(ii)
 - (iii) a development corporation (including an urban development corporation); or
 - ^{F3}(iv) Scottish Homes]
 - (v) the Housing Corporation; or
 - (vi) a registered housing association; or
 - (vii) a housing co-operative; or
 - (viii) a police authority in Scotland; or
 - (ix) a fire authority in Scotland; and
 - (b) the landlord is the heritable proprietor of the house or, in the case of a landlord who is a housing co-operative, a body mentioned in paragraph (a)(i) is the heritable proprietor; and

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- (c) immediately prior to the date of service of an application to purchase, the tenant has been for not less than 2 years in occupation of a house (including accommodation provided as mentioned in subsection (11)(n)) or of a succession of houses provided by any persons mentioned in subsection (11).

[^{F4}(2A) For the purposes of subsection (2)(c), where the house was provided by a housing association which, at any time while the house was so provided, was not a registered housing association, the association shall, if it became a registered housing association at any later time, be deemed to have been a registered housing association at all times since it first provided the house.]

- (3) This section also applies to a house let under a secure tenancy granted in pursuance of section [^{F5}282(2) or (3)] (grant of secure tenancy on acquisition of defective dwelling), if the tenant would not otherwise have the right to purchase under this Part; and where it so applies—

- (a) paragraph (c) of subsection (2) shall not have effect;
- (b) the words “beyond 2” in section 62(3)(b) shall not have effect.

- (4) This section does not apply—

- (a) to a house that is one of a group which has been provided with facilities (including a call system and the services of a warden) specially designed or adapted for the needs of persons of pensionable age or disabled persons; or
- (b) where a landlord which is a registered housing association has at no time received a grant under—
 - (i) any enactment mentioned in paragraph 2 of Schedule 1 to the ^{M1}Housing Associations Act 1985 (grants under enactments superseded by the ^{M2}Housing Act 1974);
 - (ii) section 31 of the Housing Act 1974 (management grants);
 - (iii) section 41 of the Housing Associations Act 1985 (housing association grants);
 - (iv) section 54 of that Act (revenue deficit grants);
 - (v) section 55 of that Act (hostel deficit grants); [^{F6}or]
 - (vi) section 59(2) of that Act (grants by local authorities); [^{F6}or]
 - [^{F7}(vii) section 50 of the Housing Act 1988 (housing association grants); or
 - (viii) section 51 of that Act (revenue deficit grants); or]
- (c) where such a landlord has at no time let (or had available for letting) more than 100 dwellings; or
- (d) where such a landlord is a charity—
 - (i) entered in the register of charities maintained under the ^{M3}Charities Act 1960 by the Charity Commissioners for England and Wales; or
 - (ii) which but for section 4(4) of, and paragraph (g) of the Second Schedule to, that Act (exempt charities) would require to be so entered; or
- (e) where by virtue of section 49(2) of the said Act of 1960 (extent) such a landlord is not one to which Part II of that Act (registration of charities, etc.) applies, but—
 - (i) the landlord has, in respect of all periods from 14th November 1985 or from the date of first being registered by the Housing Corporation [^{F8}or by Scottish Homes] (whichever is the later) claimed and been granted (whether or not retrospectively), under section 360(1) of the

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^{M4}Income and Corporation Taxes Act 1970 (special exemptions for charities), exemption from tax; and

- (ii) where such exemption has not been claimed and granted in respect of all periods from the said date of registration, the rules of the landlord, registered under the ^{M5}Industrial and Provident Societies Act 1965 and in force at that date, were such as would have admitted of such exemption had it been claimed as at that date; or
- (f) where, within a neighbourhood, the house is one of a number (not exceeding 14) of houses with a common landlord, being a [^{F9}landlord which is a registered housing association], and it is the practice of that landlord to let at least one half of those houses for occupation by any or all of the following—
 - (i) persons who have suffered from, or are suffering from, mental disorder (as defined in the ^{M6}Mental Health (Scotland) Act 1984), physical handicap or addiction to alcohol or other drugs;
 - (ii) persons who have been released from prison or other institutions;
 - (iii) young persons who [^{F10}as children have been looked after by] a local authority,and a social service is, or special facilities are, provided wholly or partly for the purpose of assisting those persons.

[^{F11}(4A) The reference in subsection (4)(f)(iii) above to children looked after by a local authority shall be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.]

- (5) Where the spouse of a tenant or, where there is a joint tenancy, the spouse of a joint tenant, occupies the house as his only or principal home but is not himself a joint tenant, the right to purchase the house under subsection (1) shall not be exercised without the consent of such spouse.
- (6) A tenant may exercise his right to purchase, if he so wishes, together with one or more members of his family acting as joint purchasers, provided—
 - (a) that such members are at least 18 years of age, that they have, during the period of 6 months ending with the date of service of the application to purchase, had their only or principal home with the tenant and that their residence in the house is not a breach of any obligation of the tenancy; or
 - (b) where the requirements of paragraph (a) are not satisfied, the landlord has consented.
- (7) The Secretary of State may by order made by statutory instrument amend, or add to, the descriptions of persons set out in sub-paragraphs (i) to (iii) of paragraph (f) of subsection (4).
- (8) The Commissioners of Inland Revenue shall, as regards any registered housing association, at the request of the Secretary of State, provide him [^{F12}, the Housing Corporation and Scottish Homes] with such information as will enable them to determine whether that association is a landlord in respect of which this section will not, by virtue of subsection (4)(d), apply; and where a registered housing association is refused exemption on a claim under section 360(1) of the ^{M7}Income and Corporation Taxes Act 1970 the Commissioners shall forthwith inform the Secretary of State [^{F12}, the Housing Corporation and Scottish Homes] of that fact.
- (9) Where information has been received by the Housing Corporation [^{F13} or by Scottish Homes] under subsection (8) and having regard to that information the Corporation

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[^{F14}or, as the case may be, Scottish Homes] is satisfied that the housing association to which it relates is not a landlord in respect of which this section applies, they shall make an entry to that effect in the register of housing associations maintained by them under section 3(1) [^{F15}or, as the case may be, 3(1A)] of the ^{M8}Housing Associations Act 1985; and they shall cancel that entry where subsequent information so received in relation to that housing association is inconsistent with their being so satisfied.

(10) In this section and the following section—

- (a) references to occupation of a house include occupation—
 - (i) in the case of joint tenants, by any one of them;
 - (ii) by any person occupying the house rent-free;
 - (iii) as the spouse of the tenant, joint tenant or of any such person;
 - (iv) as the child, or the spouse of a child, of a tenant or a person occupying the house rent free who has succeeded, directly or indirectly, to the rights of that person in a house occupation of which would be reckonable for the purposes of this section; but only in relation to any period when the child, or as the case may be spouse of the child, is at least 16 years of age; or
 - (v) ^{F16}, as a member of the family of a tenant or a person occupying the house rent free who, not being that person's spouse or child (or child's spouse), has succeeded, directly or indirectly, to such rights as are mentioned in paragraph (iv); but only in relation to any period when the member of the family is at least 16 years of age.
- (b) for the purpose of determining the period of occupation—
 - ^{F17}(i)
 - ^{F17}(ii)
 - [^{F18}(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.]

(11) The persons providing houses referred to in subsection (2)(c) (occupation requirement for exercise of right to purchase) and in section 62(3)(b) (calculation of the discount from the market value) are—

- (a) [^{F19}any local authority] in Scotland; any local authority in England and Wales or in Northern Ireland; and the statutory predecessors of any such ^{F20} . . . authority, or the common good of any such [^{F19}authority], or any trust under the control of any such [^{F19}authority];
- (b) the Commission for the New Towns;
- (c) a development corporation, an urban development corporation; and any development corporation established under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of any such authority;
- [^{F21}(d) Scottish Homes and the Scottish Special Housing Association;]
- (e) a registered housing association;
- (f) the Housing Corporation;
- (g) a housing co-operative within the meaning of section 22 or a housing co-operative within the meaning of section 27B of the ^{M9}Housing Act 1985;
- ^{F22}(h)

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- (i) the Northern Ireland Housing Executive or any statutory predecessor;
- (j) a police authority or the statutory predecessors of any such authority;
- (k) a fire authority or the statutory predecessors of any such authority;
- (l) [^{F23}Scottish Water]; any water authority constituted under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of [^{F24}Scottish Water and] any such authority;
- (m) the Secretary of State, where the house was at the material time used for the purposes of the Scottish Prison Service or of a prison service for which the Home Office or the Northern Ireland Office have responsibility;
- (n) the Crown, in relation to accommodation provided in connection with service whether by the tenant or his spouse as a member of the regular armed forces of the Crown;
- (o) the Secretary of State, where the house was at the material time used for the purposes of a health board constituted under section 2 of the ^{M10}National Health Services (Scotland) Act 1978 or for the purposes of a corresponding board in England and Wales, or for the purposes of the statutory predecessors of any such board; or the Department of Health and Social Services for Northern Ireland, where the house was at the material time used for the purposes of a Health and Personal Services Board in Northern Ireland, or for the purposes of the statutory predecessors of any such board;
- (p) the Secretary of State, or the Minister of Agriculture, Fisheries and Food, where the house was at the material time used for the purposes of the Forestry Commission;
- (q) the Secretary of State, where the house was at the material time used for the purposes of a State Hospital provided by him under section 90 of the ^{M11}Mental Health (Scotland) Act 1984 or for the purposes of any hospital provided under corresponding legislation in England and Wales;
- (r) the Commissioners of Northern Lighthouses;
- (s) the Trinity House;
- (t) the Secretary of State, where the house was at the material time used for the purposes of Her Majesty's Coastguard;
- (u) the United Kingdom Atomic Energy Authority;
- (v) the Secretary of State, where the house was at the material time used for the purposes of any function transferred to him under section 1(2) of the ^{M12}Defence (Transfer of Functions) Act 1964 or any function relating to defence conferred on him by or under any subsequent enactment;
- (w) such other person as the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament prescribe.

Textual Amendments

- F1** S. 61(2)(a): sub-paras. (i) and (ia) substituted (1.4.1996) for sub-paras. (i) and (ii) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(a)**; S.I. 1996/323, **art. 4**
- F2** S. 61(2)(a)(ia) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)
- F3** S. 61(2)(a)(iv) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 3(2)**
- F4** S. 61(2A) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 1**
- F5** Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 93**

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- F6** Word repealed (*prosp.*) by Housing Act 1988 (c. 50, SIF 61), ss. 140(2), 141(1), **Sch. 18**
- F7** S. 61(4)(b)(vii)(viii) inserted (*prosp.*) by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 79**
- F8** Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(a)**
- F9** Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 2**
- F10** Words in s. 61(4)(f)(iii) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 42(a)**; S.I. 1996/3201, **art. 3(7)**
- F11** S. 61(4A) added (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 42(b)**; S.I. 1996/3201, **art. 3(7)**
- F12** Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(b)**
- F13** Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(c)(i)**
- F14** Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(c)(ii)**
- F15** Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(c)(iii)**
- F16** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 176(1)(a)(2), 194(4), **Sch. 12 Pt. II**
- F17** S. 61(10)(b)(i)(ii) repealed (27.9.1993) by 1993 c. 28, ss. 157(2), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1**.
- F18** Word “and” and s. 61(10)(b)(iii) added by Local Government and Housing Act 1989 (c. 42, SIF 61), s. **176(1)(b)(2)**
- F19** Words in s. 61(11)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(b)(i)(iii)**; S.I. 1996/323, **art. 4**
- F20** Words in s. 61(11)(a) repealed (1.4.1996) by 1994 c. 39, s. 180, Sch. 13 para. 152(2)(b)(ii), **Sch. 14**; S.I. 1996/323, **art. 4**
- F21** S. 61(11)(d) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(d)**
- F22** S. 61(11)(h) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1999/2244, **art. 4**
- F23** Words in s. 61(11)(l) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)
- F24** Words in s. 61(11)(l) inserted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)

Modifications etc. (not altering text)

- C1** S. 61 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations

- M1** 1985 c. 69.
M2 1974 c. 44.
M3 1960 c. 58.
M4 1970 c. 10.
M5 1965 c. 12.
M6 1984 c. 36.
M7 1970 c. 10.
M8 1985 c. 68.
M9 1985 c. 68.
M10 1978 c. 29.
M11 1984 c. 36.
M12 1964 c. 15

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VALID FROM 30/09/2002

[^{F25}61A Limitation on right to purchase from registered social landlords

- (1) Subject to subsection (2), this section applies to a Scottish secure tenancy where the landlord is a registered social landlord and—
 - (a) the tenancy was created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or
 - (b) the tenancy became a Scottish secure tenancy by virtue of such an order.
- (2) This section does not apply—
 - (a) to a tenancy of a house acquired by the landlord after the date referred to in subsection (1)(a),
 - (b) to a tenancy of a house constructed by the landlord after that date if an offer of grant in connection with the construction was made by the Scottish Ministers or a local authority after that date,
 - (c) in such other circumstances as the Scottish Ministers may specify by order made by statutory instrument.
- (3) Where this section applies, section 61(1) does not apply in relation to a house let under the tenancy until the expiry of—
 - (a) the period of 10 years beginning with the date referred to in subsection (1)(a), and
 - (b) any further period determined under subsection (4).
- (4) The Scottish Ministers may if they think fit, on an application made by the landlord before the expiry of a period mentioned in subsection (3)(a) or (b), determine a further period, not exceeding 10 years, for the purposes of paragraph (b) of that subsection.
- (5) The Scottish Ministers may issue guidance as to—
 - (a) the form of such an application,
 - (b) the information to be provided by the landlord in support of such an application.
- (6) Before making an application under subsection (4), the landlord shall consult—
 - (a) any heritable creditor of the landlord having an interest in a house of the landlord's in relation to which this section applies, and
 - (b) such other persons as it thinks fit.
- (7) If a registered social landlord so elects by notice in writing to the Scottish Ministers, subsection (3) ceases, on the date specified in the notice, to have effect in relation to houses let (whether before or after that date) by the landlord.
- (8) A notice given under subsection (7) cannot be withdrawn after the date specified in it.
- (9) Where a landlord gives a notice under subsection (7) it shall take such steps as are reasonable to inform—
 - (a) those of its tenants affected by the operation of subsection (3), and
 - (b) any heritable creditor referred to in subsection (6)(a),that the notice has been given and of its effect.

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(10) A statutory instrument containing an order under subsection (2)(c) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

Textual Amendments

F25 S. 61A inserted (30.9.2002) by 2001 asp 10, s. 44; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

VALID FROM 30/09/2002

[^{F26}61B Limitation on right to purchase: pressured areas

- (1) The Scottish Ministers may, from time to time, on a proposal from a local authority, designate any part of the local authority's area as a pressured area if they consider that—
 - (a) the needs of that part for housing accommodation in houses provided by the authority or by registered social landlords exceed substantially, or are likely to exceed substantially, the amount of such housing accommodation which is, or is likely to be, available in that part, and
 - (b) the exercise by tenants of houses in that part of the right under section 61(1) to purchase such houses is likely to increase the extent by which such needs exceed the amount of such housing accommodation.
- (2) A designation under subsection (1)—
 - (a) may be in terms of the proposal or in such other terms as the Scottish Ministers think fit,
 - (b) has effect for such period, not exceeding 5 years, as the Scottish Ministers may specify.
- (3) For so long as an area is designated as a pressured area, section 61(1) does not apply in relation to a house in the area—
 - (a) let under a tenancy created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or
 - (b) let under a tenancy created before that date where—
 - (i) the tenant did not, immediately before that date, have a right under section 61(1) to purchase the house, or
 - (ii) the tenant succeeded to the tenancy on or after that date.
- (4) In determining for the purposes of subsection (3)(b)(i) whether a tenant had a right to purchase a house, section 61(2)(c) is to be left out of account.
- (5) A designation under subsection (1) shall—
 - (a) identify the pressured area,
 - (b) specify the date on which the designation takes effect, and
 - (c) specify the period for which it has effect.
- (6) The local authority shall take such steps as are reasonable to publicise—
 - (a) a designation under subsection (1) and its effect,

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- (b) any amendment or revocation of such a designation under subsection (8) and its effect.
- (7) Where a local authority landlord or a registered social landlord offers a person a tenancy of a house in an area in relation to which, on the proposed commencement date of the tenancy, a designation under subsection (1) will be in force, the landlord shall inform the person of the designation and its effect.
- (8) A designation under subsection (1) may be amended or revoked by the Scottish Ministers at any time if the local authority propose that they should do so and provide reasons for that proposal sufficient to justify the amendment or revocation.
- (9) A local authority may make a further proposal under subsection (1) in relation to a part of their area despite a designation under that subsection being, or having been, in force in relation to that part.
- (10) Nothing in this section affects a notice to purchase served prior to the designation of an area as a pressured area.]

Textual Amendments

F26 S. 61B inserted (30.9.2002) by 2001 asp 10, s. 45; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

VALID FROM 30/09/2002

^{F27} 61C Pressured area proposals: procedure

- (1) A proposal by a local authority under section 61B(1) shall specify—
 - (a) the part of their area proposed for designation as a pressured area, and
 - (b) the period, not exceeding 5 years, for which it is proposed the designation should have effect.
- (2) The Scottish Ministers may issue guidance as to—
 - (a) the form of such a proposal,
 - (b) the information to be provided by a local authority in support of such a proposal.
- (3) Before making a proposal under section 61B(1) in relation to any part of their area a local authority shall consult—
 - (a) every registered social landlord holding houses for housing purposes in the part in question, and
 - (b) such bodies representing the interests of tenants and other residents in that part, and such other persons, as the authority think fit.

Textual Amendments

F27 S. 61C inserted (30.9.2002) by 2001 asp 10, s. 45; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

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[^{F28}61D Limitation on right to purchase: arrears of rent, council tax etc.

- (1) Subsections (2) and (3) apply where a tenant serves on a landlord an application to purchase at a time when the tenant, or any joint purchaser (within the meaning of section 61(6))—
 - (a) has not paid the landlord rent or any other charge lawfully due to the landlord under that or any other tenancy, or
 - (b) has not paid any sum lawfully due in respect of—
 - (i) council tax in respect of the house or any other house in the local government area in which the house is situated, or
 - (ii) water and sewerage charges in relation to the house or any other such house.
- (2) If the landlord is a local authority landlord, it is entitled (but not required) to serve on the tenant a notice of refusal under section 68.
- (3) If the landlord is a registered social landlord—
 - (a) where the sum is a sum referred to in subsection (1)(a), the landlord is entitled (but not required) to serve such a notice on the tenant,
 - (b) where the sum is a sum referred to in subsection (1)(b), the landlord shall—
 - (i) consult the local authority for the area in which the house is situated, and
 - (ii) serve such a notice on the tenant unless the authority agree that such a notice should not be served.]

Textual Amendments

F28 S. 61D inserted (30.9.2002) by 2001 asp 10, s. 46(1); S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

VALID FROM 30/09/2002

[^{F29}61E Limitation on right to purchase: conduct

- (1) Subsection (3) applies where—
 - (a) the landlord has served on the tenant a notice under section 14(2) of the Housing (Scotland) Act 2001 (asp 10) specifying a ground set out in any of paragraphs 1 to 7 of schedule 2 to that Act as the ground on which proceedings for recovery of possession of the house are to be raised, and
 - (b) neither of the following has occurred—
 - (i) the notice has ceased to be in force in accordance with section 14(5) of that Act or has been withdrawn by the landlord without proceedings for recovery of possession having been raised, or
 - (ii) such proceedings have been raised and have been finally determined.

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- (2) For the purposes of subsection (1)(b)(ii) proceedings are finally determined when—
 - (a) the period for appealing against the interlocutor disposing of the proceedings has expired without an appeal being lodged, or
 - (b) where an appeal has been lodged, the appeal is withdrawn or finally determined.
- (3) Where this subsection applies, section 61(1) does not apply in relation to the house referred to in subsection (1) of this section.
- (4) Nothing in this section affects an application to purchase served prior to service of the notice referred to in subsection (1).]

Textual Amendments

F29 S. 61E inserted (30.9.2002) by 2001 asp 10, s. 47; S.S.I. 2002/321, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-5)

62 The price.

- (1) Subject to ^{F30}subsection (6A)], the price at which a tenant entitled to purchase a house under this Part shall be fixed ^{F31}as at the date of service of the application to purchase] by subtracting a discount from the market value of the house.
- (2) The market value for the purposes of this section shall be determined by ^{F32}either]—
 - (a) a qualified valuer nominated by the landlord and accepted by the tenant; or
 - (b) the district valuer,^{F33}as the landlord thinks fit] as if the house were available for sale on the open market with vacant possession at the date of service of the application to purchase.

For the purposes of this subsection, no account shall be taken of any element in the market value of the house which reflects an increase in value as a result of work the cost of which would qualify for a reimbursement under section 58.

- (3) Subject to subsection (5), the discount for the purposes of subsection (1) shall be—
 - (a) 32 per cent. of the market value of the house except—
 - (i) where the house is a flat, it shall be 44 per cent. of the market value;
 - (ii) where the house is one to which section 61(3) applies, it shall be 30 per cent. or, where it is a flat, 40 per cent. of the market value;together with
 - (b) an additional one per cent. or, where the house is a flat, two per cent., of the market value for every year beyond 2 of ^{F34}. . . occupation by the appropriate person, ^{F34}. . . preceding the date of service of the application to purchase, of a house (including accommodation provided as mentioned in section 61(11) (n) or of a succession of houses provided by any persons mentioned in section 61(11),

up to a maximum discount of 60 per cent., or where the house is a flat, 70 per cent. of the market value.

^{F35}(3A) There shall be deducted from the discount an amount equal to any previous discount, or the aggregate of any previous discounts, received by the appropriate person on any

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previous purchase of a house by any of these persons from a landlord who is a person specified in subsection (11) of section 61 or prescribed in an order made under that subsection, reduced by any amount of such previous discount recovered by such a landlord.]

(4) For the purposes of subsection (3)

[^{F36}(a) the “appropriate person” is whoever of—

- (i) the tenant; or
- (ii) the tenant’s spouse if living with him at the date of service of the application to purchase; or
- (iii) a deceased spouse if living with the tenant at the time of death; or
- (iv) any joint tenant who is a joint purchaser of the house,

has the longer or longest such occupation;]

[^{F37}(b) where the house was provided by a housing association which, at any time while the house was so provided was not a registered housing association, the association shall, if it became a registered housing association at any later time, be deemed to have been a registered housing association at all times since it first provided the house.][^{F38} and, for the purposes of subsection (3A), the “appropriate person ” is any of the persons mentioned in sub-paragraphs (i) to (iv) of paragraph (a).]

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

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

shall be such percentage, higher than that specified in subsection (3), as may be specified in the order.

(6) An order under subsection (5)—

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

[^{F39}(6A) Except where the Secretary of State so determines, the discount for the purpose of subsection (1) shall not reduce the price below the amount which, in accordance with a determination made by him, is to be taken as representing so much of the costs incurred in respect of the house as, in accordance with the determination, is to be treated as—

- (a) incurred in the period commencing with the beginning of the financial year of the landlord which was current 5 years prior to the date of service of the application to purchase the house or such other period as the Secretary of State may by order provide; and
- (b) relevant for the purposes of this subsection,

and, if the price before discount is below that amount, there shall be no discount.

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- (6B) An order under subsection (6A) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may make different provision in relation to different cases or circumstances or different areas.]
- (10) Where at the date of service of an offer to sell under section 63 any of the costs referred to in subsection [F40(6A)] are not known, the landlord shall make an estimate of such unknown costs for the purposes of that subsection.
- (11) F41

Textual Amendments

- F30** Words substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 65\(1\)\(6\)](#)
- F31** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 94](#)
- F32** Word inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 72\(1\), Sch. 8 para. 2\(a\)\(i\)](#)
- F33** words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 72\(1\), Sch. 8 para. 2\(a\)\(ii\)](#)
- F34** Words in s. 62(3)(b) repealed (27.9.1993) by 1993 c. 28, ss. 157(3)(a), 187(2), [Sch. 22](#); S.I. 1993/2163, art. 2, [Sch. 1](#).
- F35** S. 62(3A) inserted (27.9.1993) by 1993 c. 28, [s. 157\(3\)\(b\)](#); S.I. 1993/2163, art. 2, [Sch. 1](#).
- F36** S. 62(4)(a) substituted (27.9.1993) by 1993 c. 28, [s. 157\(3\)\(c\)\(i\)](#); S.I. 1993/2163, art. 2, [Sch. 1](#).
- F37** Word “; and” and s. 62(4)(b) added by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 72\(1\), Sch. 8 para. 2\(b\)\(ii\)](#)
- F38** Words in s. 62(4) inserted (27.9.1993) by 1993 c. 28, [s. 157\(3\)\(c\)\(ii\)](#); S.I. 1993/2163, art. 2, [Sch. 1](#).
- F39** S. 62(6A)(6B) substituted for s. 62(7)–(9) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 65\(2\)\(6\)](#)
- F40** “(6A)” substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 65\(3\)\(6\)](#)
- F41** S. 62(11)–(13) repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), ss. 65\(4\)\(6\), 72\(3\), Sch. 10](#)

Modifications etc. (not altering text)

- C2** S. 62 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, [Sch. 1](#)

[F42] **62A Eligibility for rent to loan scheme.**

- (1) Subject to subsection (2), a tenant who has the right under section 61 to purchase a house may exercise the right by way of the rent to loan scheme.
- (2) Subsection (1) does not apply—
- (a) to the tenant of a house which is designated as defective under Part XIV; or
 - (b) to a tenant—
 - (i) in respect of whom a determination has been made that he is entitled to housing benefit in respect of any part of the relevant period; or
 - (ii) by or on behalf of whom a claim for housing benefit has been made (or is treated as having been made) and has not been determined or withdrawn.
- (3) In subsection (2), “the relevant period” means the period—
- (a) beginning twelve months before the date of the application to purchase the house; and
 - (b) ending on the day when the contract of sale of the house is constituted under section 66(2).]

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Textual Amendments

F42 S. 62A inserted (27.9.1993) by 1993 c. 28, s. 141; S.I. 1993/2163, art. 2, Sch. 1.

Status:

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Changes to legislation:

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