



# Housing Act 1988

## 1988 CHAPTER 50

### PART III **E+W**

#### HOUSING ACTION TRUST AREAS

##### *Disposals of land*

#### 79 Disposal of land by housing action trusts. **E+W**

- (1) Subject to subsection (2) below and any directions given by the Secretary of State, a housing action trust may, with the consent of the Secretary of State, dispose of any land for the time being held by it to such persons, in such manner and on such terms as it considers expedient for the purpose of achieving its objects.
- (2) A housing action trust may not dispose of a house which is for the time being subject to a secure tenancy [<sup>F1</sup>or an introductory tenant] except—
  - [<sup>F2</sup>(a) to a registered social landlord (within the meaning of Part I of the Housing Act 1996), or]
  - (b) to a local housing authority or other local authority <sup>F3</sup>. . . ;but this subsection does not apply to a disposal under Part V of the <sup>M1</sup>Housing Act 1985 (the right to buy).
- (3) The reference in subsection (1) above to disposing of land includes a reference to granting an interest in or right over land and, in particular, the granting of an option to purchase the freehold of, or any other interest in, land is a disposal for the purposes of that subsection; and a consent under that subsection given to such a disposal extends to a disposal made in pursuance of the option.
- (4) The consent of the Secretary of State referred to in subsection (1) above may be given—
  - (a) either generally to all housing action trusts or to a particular trust or description of trust;
  - (b) either in relation to particular land or in relation to land of a particular description; and

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(c) subject to conditions.

(5) Without prejudice to the generality of subsection (4)(c) above, consent under subsection (1) above may, in particular, be given subject to conditions as to the price, premium or rent to be obtained by the housing action trust on the disposal, including conditions as to the amount by which, on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the housing action trust.

[<sup>F4</sup>(5A) Subsection (2) above has effect as if the saving effected by paragraph 9 of the Schedule to the Housing Act 1996 (Commencement No. 3 and Transitional Provisions) Order 1996 related also to disposals of houses subject to introductory tenancies.]

<sup>F5</sup>(6) .....

<sup>F5</sup>(7) .....

<sup>F5</sup>(8) .....

<sup>F5</sup>(9) .....

<sup>F5</sup>(10) .....

(11) In section 45(2)(b) of the <sup>M2</sup>Housing Act 1985 (which defines “public sector authority” for the purposes of provisions of that Act restricting service charges payable after disposal of a house) after the entry “an urban development corporation” there shall be inserted “a housing action trust”.

(12) A housing action trust shall be treated as a local authority for the purposes of sections 18 to 30 of the <sup>M3</sup>Landlord and Tenant Act 1985 (service charges).

(13) The provisions of Schedule 11 to this Act shall have effect in the case of certain disposals of houses by a housing action trust.

#### Textual Amendments

**F1** Words in s. 79(2) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(c)**

**F2** S. 79(2): paragraph (a) and word “or” at the end of the paragraph substituted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para. 11** (with s. 51(4); S.I. 1996/2402, **art. 3**)

**F3** Words in s. 79(2)(b) repealed (11.10.1993) by 1993 c. 28, ss. 124(1), 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4, **Sch. 2** (with Sch. 1 para. 5).

**F4** S. 79(5A) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(d)**

**F5** S. 79(6)-(10) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3**

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

**C1** S. 79(1)(2) excluded (1.11.1993) by 1993 c. 28, ss. 37, 56(7), **Sch. 10 para. 1(2)(c)**; S.I. 1993/2134, arts. 2, 5

#### Marginal Citations

**M1** 1985 c. 68.

**M2** 1985 c. 68.

**M3** 1985 c. 70.

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## **80 Disposals made without consent. E+W**

- (1) Any disposal of a house by a housing action trust which is made without the consent required by section 79(1) above is void unless—
  - (a) the disposal is to an individual (or to two or more individuals); and
  - (b) the disposal does not extend to any other house.
- (2) Subject to subsection (1) above,—
  - (a) a disposal of any land made by a housing action trust shall not be invalid by reason only that it is made without the consent required by section 79(1) above; and
  - (b) a person dealing with a housing action trust or with a person claiming under such a trust shall not be concerned to see or enquire whether any consent required by section 79(1) above has been obtained.

## **81 Consent required for certain subsequent disposals. E+W**

- (1) If, by a material disposal, a housing action trust disposes of a house which is for the time being subject to a secure tenancy [<sup>F6</sup>or an introductory tenancy] to such a person as is mentioned in section 79(2)(a) above (in this section referred to as an “approved person”), the conveyance shall contain a statement that the requirement of this section as to consent applies to a subsequent disposal of the house by the approved person.
- (2) For the purposes of this section a “material disposal” is—
  - (a) the transfer of the fee simple;
  - (b) the transfer of an existing lease; or
  - (c) the grant of a new lease; and “the conveyance” means the instrument by which such a disposal is effected.
- (3) An approved person who acquires a house on a material disposal falling within subsection (1) above shall not dispose of it except with the consent of the Secretary of State which may be given either unconditionally or subject to conditions; but nothing in this subsection shall apply in relation to an exempt disposal as defined in subsection (8) below.
- (4) Where an estate or interest in a house acquired by an approved person as mentioned in subsection (3) above has been mortgaged or charged, the prohibition in that subsection applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—
  - (a) by operation of law or by virtue of an order of a court, property which has been acquired by an approved person passes or is transferred to another person, and
  - (b) that passing or transfer does not constitute a disposal for which consent is required under subsection (3) above,this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the property passes or is transferred were the approved person.
- (5) Before giving consent in respect of a disposal to which subsection (3) above applies, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any house proposed to be disposed of; and

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- (b) shall have regard to the responses of any such tenants to that consultation.
- (6) If, apart from subsection (7) below, the consent of the Corporation would be required under [F7 section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or] section 9 of the M4 Housing Associations Act 1985 (control of dispositions of land by [F8 unregistered] housing associations) for a disposal to which subsection (3) above applies, the Secretary of State shall consult the Corporation before giving his consent in respect of the disposal for the purposes of this section.
- (7) No consent shall be required under [F9 section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985] for any disposal in respect of which consent is given in accordance with subsection (6) above.
- (8) In this section an “exempt disposal” means—
- (a) the disposal of a dwelling-house to a person having the right to buy it under Part V of the M5 Housing Act 1985 (whether the disposal is in fact made under that Part or otherwise);
  - (b) a compulsory disposal, within the meaning of Part V of the Housing Act 1985;
  - (c) the disposal of an easement or rentcharge;
  - (d) the disposal of an interest by way of security for a loan;
  - (e) the grant of a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule I to the Housing Act 1985;
  - (f) the grant of an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of this Act, or what would be such a tenancy or occupancy but for any of paragraphs 4 to 8 of Schedule I to this Act; and
  - (g) the transfer of an interest held on trust for any person where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee.
- (9) Where the title of a housing action trust to a house which is disposed of by a material disposal falling within subsection (1) above is not registered—
- (a) section 123 of the M6 Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance whether or not the house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force;
  - (b) the housing action trust shall give the approved person a certificate stating that it is entitled to make the disposal subject only to such encumbrances, rights and interests as are stated in the conveyance or summarised in the certificate; and
  - (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1986 the housing action trust is liable to indemnify him.
- (10) On an application being made for registration of a disposition of registered land or, as the case may be, of the approved person’s title under a disposition of unregistered land, if the conveyance contains the statement required by subsection (1) above, the Chief Land Registrar shall enter in the register a restriction stating the requirement of this section as to consent to a subsequent disposal.
- (11) In this section references to disposing of a house include references to—
- (a) granting or disposing of any interest in the house;

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- (b) entering into a contract to dispose of the house or to grant or dispose of any such interest; and
  - (c) granting an option to acquire the house or any such interest;
- and any reference to a statement or certificate is a reference to a statement or, as the case may be, certificate in a form approved by the Chief Land Registrar.

#### Textual Amendments

- F6** Words in s. 81(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(e)
- F7** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 18(10)(a)(i)
- F8** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 18(10)(a)(ii)
- F9** Words in s. 81(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), Sch. 2 para. 18(10)(b)

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

- C2** S. 81 excluded (1.11.1993) by 1993 c. 28, ss. 37, 56(6), Sch. 10 para. 1(2)(c); S.I. 1993/2134, arts. 2, 5

#### Marginal Citations

- M4** 1985 c. 69
- M5** 1985 c. 68
- M6** 1925 c. 21

## 82 **Power of Corporation to provide legal assistance to tenants after disposal.** **E** **+W**

- (1) This section applies where a house has been disposed of by a Corporation to disposal falling within section 79(2) above and, in relation to a house provide legal which has been so disposed of, a “transferred tenant” means a tenant of it assistance to who either—
- (a) was the secure tenant [<sup>F10</sup>or the introductory tenant] of the house immediately before the disposal; or
  - (b) is the widow or widower of the person who was then the secure tenant [<sup>F10</sup>or the introductory tenant] of it.
- (2) On an application by a transferred tenant of a house who is a party or a prospective party to proceedings or prospective proceedings to determine any dispute between himself and the person who acquired the house on the disposal referred to in subsection (1) above, the Corporation may give assistance to the transferred tenant if it thinks fit to do so—
- (a) on the ground that the case raises a question of principle; or
  - (b) on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the transferred tenant to deal with it without assistance; or
  - (c) by reason of any other special consideration.
- (3) Assistance given by the Corporation under this section may include—
- (a) giving advice;
  - (b) procuring or attempting to procure the settlement of the matter in dispute;
  - (c) arranging for the giving of advice or assistance by a solicitor or counsel;

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- (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
  - (e) any other form of assistance which the Corporation may consider appropriate; but paragraph (d) above does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.
- (4) In so far as expenses are incurred by the Corporation in providing a transferred tenant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Corporation—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the tenant by any other person in respect of the matter in connection with which the assistance was given, and
  - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;
- but subject to any charge under the Legal Aid Act 1988 and to any provision of that Act for payment of any sum to the Legal Aid Board.

[<sup>F11</sup>(5) In this section “the Corporation” in relation to a registered social landlord which acquired the house on the disposal referred to in subsection (1) above means the Corporation in whose register the landlord is registered.

As to which Corporation that is, see section 56 of the Housing Act 1996.]

#### **Textual Amendments**

**F10** Words in s. 82(1)(a)(b) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(f)**

**F11** S. 82(5) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(11)**

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

**C3** S. 82(3)(c)(d) amended (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, **Sch. 1**

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