



Housing Act 1988

1988 CHAPTER 50

PART IV

CHANGE OF LANDLORD: SECURE TENANTS

Preliminary

93 Right conferred by Part IV.

- (1) This Part has effect for the purpose of conferring on any person who has been approved under section 94 below the right to acquire from a public sector landlord, subject to and in accordance with the provisions of this Part—
 - (a) the fee simple estate in any buildings each of which comprises or contains one or more dwelling-houses which on the relevant date are occupied by qualifying tenants of the public sector landlord; and
 - (b) the fee simple estate in any other property which is reasonably required for occupation with buildings falling within paragraph (a) above.
- (2) The following are public sector landlords for the purposes of this Part, namely—
 - (a) a local housing authority within the meaning of section 1 of the Housing Act 1985 (in this Part referred to as “the 1985 Act”);
 - (b) a new town corporation within the meaning of section 4(b) of that Act;
 - (c) a housing action trust within the meaning of Part III of this Act; and
 - (d) the Development Board for Rural Wales.
- (3) Subject to subsection (4) below, a secure tenant of a public sector landlord is a qualifying tenant for the purposes of this Part if (and only if) his secure tenancy is held directly from the landlord as owner of the fee simple estate and, in relation to any acquisition or proposed acquisition under this Part, any reference in the following provisions of this Part to qualifying tenant is a reference only to a qualifying tenant of the public sector landlord from whom the acquisition is or is proposed to be made.
- (4) A secure tenant is not a qualifying tenant for the purposes of this Part if—

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- (a) he is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in such an order; or
 - (b) the circumstances are as set out in any of paragraphs 5 to 11 of Schedule 5 to the 1985 Act (exceptions to right to buy).
- (5) In this Part “the relevant date”, in relation to an acquisition or proposed acquisition under this Part, means the date on which is made the application under section 96 below claiming to exercise the right conferred by this Part.

94 Persons by whom right may be exercised.

- (1) The right conferred by this Part shall not be exercisable except by a person who is for the time being approved by the Corporation under this section; and neither a public sector landlord nor the council of a county nor any other body which the Corporation have reason to believe might not be independent of such a landlord or council may be approved under this section.
- (2) For the purposes of subsection (1) above, a body shall not be regarded as independent of a public sector landlord or the council of a county if the body is or appears likely to be under the control of, or subject to influence from, such a landlord or council or particular members or officers of such a landlord or council.
- (3) The Corporation shall establish (and may from time to time vary) criteria to be satisfied by a person seeking approval under this section and, without prejudice to subsections (1) and (2) above, in deciding whether to give such approval, the Corporation shall have regard to whether the person satisfies those criteria.
- (4) Subject to any directions under section 76 of the ^{M1}Housing Associations Act 1985 (directions by the Secretary of State), an approval under this section—
 - (a) shall not be given except to a person making an application accompanied by such fee as the Corporation, with the consent of the Secretary of State, may specify; and
 - (b) may be given to a particular person or to persons of a particular description; and
 - (c) may apply either in relation to acquisitions generally or in relation to a particular acquisition or acquisitions or in relation to acquisitions made in a particular area or within a particular period; and
 - (d) may be made conditional upon the person or persons concerned entering into such undertakings as may be specified by the Corporation;
 and different fees may be specified under paragraph (a) above for different descriptions of cases.
- (5) Subject to any directions under section 76 of the Housing Associations Act 1985, if it appears to the Corporation appropriate to do so (whether by reason of a failure to honour an undertaking or to meet any criteria or for any other reason), the Corporation may revoke an approval given under this section by notice in writing served on the approved person; and where such a notice of revocation is served—
 - (a) the revocation shall be provisional until the expiry of such period, being not less than 14 days, as may be specified in the notice;
 - (b) if the Corporation withdraws the notice at any time during the specified period, the approval shall be treated as never having been revoked; and

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- (c) subject to paragraph (b) above, after the date of service of the notice, the person concerned may not take any steps in connection with a claim to exercise the right conferred by this Part;
- but the service of a notice under this subsection shall not affect any transaction completed before the service of the notice.
- (6) In the case of a body which has been approved under this section which does not have a registered office (at which documents can be served) and which appears to the Corporation to have ceased to exist or not to operate, notice under subsection (5) above shall be deemed to be served on the body if it is served at the address last known to the Corporation to be the principal place of business of the body.
- (7) The Housing Corporation and Housing for Wales shall each maintain a register of persons for the time being approved by it under this section, specifying the extent of the approval given in each case; and each register so maintained shall be open to inspection at the head office of the Corporation by which it is maintained at all reasonable times.

Marginal Citations

M1 1985 c. 69.

95 Property excluded from right.

- (1) A building shall be excluded from an acquisition under this Part if on the relevant date—
- (a) any part or parts of the building is or are occupied or intended to be occupied otherwise than for residential purposes; and
 - (b) the internal floor area of that part or those parts (taken together) exceeds 50 per cent. of the internal floor area of the building (taken as a whole);
- and for the purposes of this subsection the internal floor area of any common parts or common facilities shall be disregarded.
- (2) In the application of subsection (1) above to property falling within section 93(1)(b) above, a building or part of a building which, apart from this subsection, would not be regarded as occupied for residential purposes shall be so regarded if—
- (a) it is or is intended to be occupied together with a dwelling-house and used for purposes connected with the occupation of the dwelling-house; or
 - (b) it is or is intended to be used for the provision of services to a dwelling-house which is comprised in a building falling within section 93(1)(a) above.
- (3) A building shall be excluded from an acquisition under this Part if—
- (a) it contains two or more dwelling-houses which on the relevant date are occupied by secure tenants who are not qualifying tenants; and
 - (b) the number of dwelling-houses which on that date are occupied by such tenants exceeds 50 per cent. of the total number of dwelling-houses in the building.
- (4) A dwelling-house shall be excluded from an acquisition under this Part if it is a house and it is occupied on the relevant date by—
- (a) a secure tenant who is precluded from being a qualifying tenant by section 93(4)(b) above; or

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- (b) a tenant who is not a secure tenant.
- (5) A building or other property shall be excluded from an acquisition under this Part if—
- (a) it was specified in some other application made under section 96 below made before the relevant date; and
 - (b) that other application has not been disposed of.
- (6) Except to the extent that it comprises or is let together with a dwelling-house, property shall be excluded from an acquisition under this Part if it is land held—
- (a) for the purposes of section 164 of the ^{M2}Public Health Act 1875 (pleasure grounds); or
 - (b) in accordance with section 10 of the ^{M3}Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds).
- (7) The Secretary of State may by order substitute for the percentage for the time being specified in subsection (1)(b) above such other percentage as is specified in the order.

Marginal Citations

M2 1875 c. 55.

M3 1906 c. 25.

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