



# Housing Act 1988

## 1988 CHAPTER 50

### PART III

#### HOUSING ACTION TRUST AREAS

##### *Disposals of land*

#### **81 Consent required for certain subsequent disposals.**

- (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>F1</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

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- (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
  - (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 [<sup>F2</sup>section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or] section 9 of the <sup>M1</sup>Housing Associations Act 1985 (control of dispositions of land by [<sup>F3</sup>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 [<sup>F4</sup>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 <sup>M2</sup>Housing Act 1985 (whether the disposal is in fact made under that Part or otherwise);
  - [<sup>F5</sup>(ab) the disposal of a dwelling-house to a person having the right to acquire it under Part I of the Housing Act 1996 (see sections 16 and 17 of that Act), whether or not the disposal is in fact made under provisions having effect by virtue of section 17 of that Act]
  - (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—
  - <sup>F6</sup>(a) .....
  - (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

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- (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;
  - (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

- F1** Words in s. 81(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(e)**
- F2** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(a)(i)**
- F3** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(a)(ii)**
- F4** Words in s. 81(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(b)**
- F5** S. 81(8)(ab) inserted (1.4.1997) by S.I. 1997/627, art. 2, **Sch. para. 6**
- F6** S. 81(9)(a) repealed (1.4.1998) by 1997 c. 2, s. 4, **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**

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

- C1** 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

- M1** 1985 c. 69
- M2** 1985 c. 68

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