



Leasehold Reform, Housing and Urban Development Act 1993

1993 CHAPTER 28

PART II

PUBLIC SECTOR HOUSING

CHAPTER I

ENGLAND AND WALES

Right to acquire on rent to mortgage terms

108 Right to acquire on rent to mortgage terms.

For section 143 of the 1985 Act there shall be substituted the following sections—

“ Right to acquire on rent to mortgage terms

143 Right to acquire on rent to mortgage terms.

- (1) Subject to subsection (2) and sections 143A and 143B, where—
 - (a) a secure tenant has claimed to exercise the right to buy, and
 - (b) his right to buy has been established and his notice claiming to exercise it remains in force,he also has the right to acquire on rent to mortgage terms in accordance with the following provisions of this Part.
- (2) The right to acquire on rent to mortgage terms cannot be exercised if the exercise of the right to buy is precluded by section 121 (circumstances in which right to buy cannot be exercised).

Status: Point in time view as at 17/05/2005.

Changes to legislation: Leasehold Reform, Housing and Urban Development Act 1993, Section 108 is up to date with all changes known to be in force on or before 03 August 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)

- (3) Where the right to buy belongs to two or more persons jointly, the right to acquire on rent to mortgage terms also belongs to them jointly.

143A Right excluded by entitlement to housing benefit.

- (1) The right to acquire on rent to mortgage terms cannot be exercised if—
- (a) it has been determined that the tenant is or was entitled to housing benefit in respect of any part of the relevant period, or
 - (b) a claim for housing benefit in respect of any part of that period has been made (or is treated as having been made) by or on behalf of the tenant and has not been determined or withdrawn.
- (2) In this section “the relevant period” means the period—
- (a) beginning twelve months before the day on which the tenant claims to exercise the right to acquire on rent to mortgage terms, and
 - (b) ending with the day on which the conveyance or grant is executed in pursuance of that right.

143B Right excluded if minimum initial payment exceeds maximum initial payment.

- (1) The right to acquire on rent to mortgage terms cannot be exercised if the minimum initial payment in respect of the dwelling-house exceeds the maximum initial payment in respect of it.
- (2) The maximum initial payment in respect of a dwelling-house is 80 per cent. of the price which would be payable if the tenant were exercising the right to buy.
- (3) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time did not exceed the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = R \times M$$

where—

P = the minimum initial payment;

R = the amount of the weekly rent at the relevant time;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (4) Where, in the case of a dwelling-house which is a house, the weekly rent at the relevant time exceeded the relevant amount, the minimum initial payment shall be determined by the formula—

$$P = Q + (E \times M)$$

where—

P = the minimum initial payment;

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Q = the qualifying maximum for the year of assessment which included the relevant time;

E = the amount by which the weekly rent at that time exceeded the relevant amount;

M = the multiplier which at that time was for the time being declared by the Secretary of State for the purposes of this subsection.

- (5) The minimum initial payment in respect of a dwelling-house which is a flat is 80 per cent. of the amount which would be the minimum initial payment in respect of the dwelling-house if it were a house.
- (6) The relevant amount and multipliers for the time being declared for the purposes of this section shall be such that, in the case of a dwelling-house which is a house, they will produce a minimum initial payment equal to the capital sum which, in the opinion of the Secretary of State, could be raised on a 25 year repayment mortgage in the case of which the net amount of the monthly mortgage payments was equal to the rent at the relevant time calculated on a monthly basis.
- (7) For the purposes of subsection (6) the Secretary of State shall assume—
- (a) that the interest rate applicable throughout the 25 year term were the standard national rate for the time being declared by the Secretary of State under paragraph 2 of Schedule 16 (local authority mortgage interest rates); and
 - (b) that the monthly mortgage payments represented payments of capital and interest only.
- (8) In this section—

“net amount”, in relation to monthly mortgage payments, means the amount of such payments after deduction of tax under section 369 of the ^{M1}Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax);

“qualifying maximum” means the qualifying maximum defined in section 367(5) of that Act (limit on relief for interest on certain loans);

“relevant amount” means the amount which at the relevant time was for the time being declared by the Secretary of State for the purposes of this section;

“relevant time” means the time of the service of the landlord’s notice under section 146 (landlord’s notice admitting or denying right);

“rent” means rent payable under the secure tenancy, but excluding any element which is expressed to be payable for services, repairs, maintenance or insurance or the landlord’s costs of management.”

Commencement Information

- II** S. 108 wholly in force; s. 108 not in force at Royal Assent see s. 188(2); s. 108 in force for certain purposes at 2.9.1993 by S.I. 1993/2134, art. 3; s. 108 in force at 11.10.1993 in so far as it was not in force, (subject to the transitional provisions and savings in Sch. 1 to S.I. 1993/2134) by S.I. 1993/2134, art. 4(b)

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Marginal Citations

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