



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

120 Repayment of discount on early disposal

- (1) For subsection (3) of section 155 of the 1985 Act (repayment of discount on early disposal) there shall be substituted the following subsection—

“(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay to the landlord on demand, if within the period of three years commencing with the making of the initial payment there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount (if any) to which the tenant was entitled on the making of—

- (a) the initial payment,
- (b) any interim payment made before the disposal, or
- (c) the final payment if so made,

reduced, in each case, by one-third for each complete year which has elapsed after the making of the initial payment and before the disposal.”

- (2) In subsection (3A) of that section, for paragraph (b) there shall be substituted the following paragraph—

Status: This is the original version (as it was originally enacted).

“(b) any reference in subsection (3) (other than paragraph (a) thereof) to the making of the initial payment shall be construed as a reference to the date which precedes that payment by the period referred to in paragraph (a) of this subsection.”

(3) For subsection (2) of section 156 of the 1985 Act (liability to repay discount is a charge on the premises) there shall be substituted the following subsections—

“(2) Subject to subsections (2A) and (2B), the charge has priority as follows—

- (a) if it secures the liability that may arise under the covenant required by section 155(2), immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to buy;
- (b) if it secures the liability that may arise under the covenant required by section 155(3), immediately after the mortgage—
 - (i) which is required by section 151B (mortgage for securing redemption of landlord’s share), and
 - (ii) which, by virtue of subsection (2) of that section, has priority immediately after any legal charge securing an amount advanced to the secure tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire on rent to mortgage terms.

(2A) The following, namely—

- (a) any advance which is made otherwise than for the purpose mentioned in paragraph (a) or (b) of subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
- (b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

- (a) is made to the tenant by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.”

(4) After subsection (4) of that section there shall be inserted the following subsections—

“(4A) The approved purposes for the purposes of this section are—

- (a) to enable the tenant to make an interim or final payment,
- (b) to enable the tenant to defray, or to defray on his behalf, any of the following—
 - (i) the cost of any works to the dwelling-house,
 - (ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house, and

- (iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and
 - (c) to enable the tenant to discharge, or to discharge on his behalf, any of the following—
 - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
 - (ii) any arrears of interest on such an advance or further advance, and
 - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.
- (4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.”