



# Housing Act 1996

## 1996 CHAPTER 52

### PART I

#### SOCIAL RENTED SECTOR

### CHAPTER II

#### DISPOSAL OF LAND AND RELATED MATTERS

##### *Power of registered social landlord to dispose of land*

#### **8 Power of registered social landlord to dispose of land.**

- (1) A registered social landlord has power by virtue of this section and not otherwise to dispose, in such manner as it thinks fit, of land held by it.
- (2) Section 39 of the <sup>M1</sup>Settled Land Act 1925 (disposal of land by trustees) does not apply to the disposal of land by a registered social landlord; and accordingly the disposal need not be for the best consideration in money that can reasonably be obtained.

Nothing in this subsection shall be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.

- (3) This section has effect subject to section 9 (control by [<sup>F1</sup>Relevant Authority] of land transactions).

#### **Textual Amendments**

**F1** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

**C1** S. 8 extended (16.9.1996) by S.I. 1996/2402, art. 3, **Sch. para. 1**

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### Marginal Citations

**M1** 1925 c. 18.

*Control by [F<sup>2</sup>Relevant Authority] of land transactions*

### Textual Amendments

**F2** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

## 9 Consent required for disposal of land by registered social landlord.

(1) The consent of the [F<sup>3</sup>Relevant Authority]. . ., is required for any disposal of land by a registered social landlord under section 8.

[F<sup>4</sup>(1A) The consent—

- (a) if given by the Housing Corporation, shall be given by order under its seal, and
- (b) if given by the Secretary of State, shall be given by order in writing.]

(2) The consent of the [F<sup>3</sup>Relevant Authority] may be so given—

- (a) generally to all registered social landlords or to a particular landlord or description of landlords;
- (b) in relation to particular land or in relation to a particular description of land, and may be given subject to conditions.

(3) Before giving any consent other than a consent in relation to a particular landlord or particular land, the [F<sup>3</sup>Relevant Authority] shall consult such bodies representative of registered social landlords as it thinks fit.

(4) A disposal of a house by a registered social landlord made without the consent required by this section is void unless—

- (a) the disposal is to an individual (or to two or more individuals),
- (b) the disposal does not extend to any other house, and
- (c) the landlord reasonably believes that the individual or individuals intend to use the house as their principal dwelling.

(5) Any other disposal by a registered social landlord which requires consent under this section is valid in favour of a person claiming under the landlord notwithstanding that that consent has not been given; and a person dealing with a registered social landlord, or with a person claiming under such a landlord, shall not be concerned to see or inquire whether any such consent has been given.

(6) Where at the time of its removal from the register of social landlords a body owns land, this section continues to apply to that land after the removal as if the body concerned continued to be a registered social landlord.

(7) For the purposes of this section “disposal” means sale, lease, mortgage, charge or any other disposition.

(8) This section has effect subject to section 10 (lettings and other disposals not requiring consent of [F<sup>3</sup>Relevant Authority]).

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#### Textual Amendments

- F3** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.
- F4** S. 9(1A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 84(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

- C2** S. 9(6) extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 6**

#### Commencement Information

- I1** S. 9 wholly in force 1.10.1996; s. 9 not in force at Royal Assent see s. 232(1)-(3); s. 9(3) in force at 1.8.1996 by S.I. 1996/2048, **art. 2**, and s. 9 in force at 1.10.1996 to the extent it is not already in force by S.I. 1996/2402, **art. 3** (subject to the transitional provisions and savings in the Sch. to that S.I.)

## 10 Lettings and other disposals not requiring consent of [<sup>F5</sup>Relevant Authority].

- (1) A letting by a registered social landlord does not require consent under section 9 if it is—
- (a) a letting of land under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or an assured agricultural occupancy but for any of paragraphs 4 to 8, or paragraph 12(1)(h), of Schedule 1 to the <sup>M2</sup>Housing Act 1988, or
  - (b) a letting of land under a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule 1 to the <sup>M3</sup>Housing Act 1985.
- (2) Consent under section 9 is not required in the case of a disposal to which section 81 or 133 of the Housing Act 1988 applies (certain disposals for which the consent of the Secretary of State is required).
- (3) Consent under section 9 is not required for a disposal under Part V of the Housing Act 1985 (the right to buy) or under the right conferred by section 16 below (the right to acquire).

#### Textual Amendments

- F5** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art.5**.

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

- C3** S. 10 extended (16.9.1996) by S.I. 1996/2402, **art. 3, Sch. para. 1**

#### Marginal Citations

- M2** 1988 c. 50.  
**M3** 1985 c. 68.

## [<sup>F6</sup>11 Covenant for repayment of discount on disposal

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant

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or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.

- (2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.
- (3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord.
- (5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (6) Subsections (3) to (5) are subject to section 11A.

**Textual Amendments**

**F6** Ss. 11-11B substituted for s. 11 (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(1), 270(3)(a)** (with s. 199(3))

**11A Increase in value of house attributable to home improvements to be disregarded**

- (1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance, grant or assignment and before the disposal,
 shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
  - (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.]

**Textual Amendments**

**F6** Ss. 11-11B substituted for s. 11 (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(1), 270(3)(a)** (with s. 199(3))

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## 12 Priority of charge for repayment of discount.

- (1) The charge taking effect by virtue of [F7 section 11B ] (charge for repayment of discount) has priority immediately after any legal charge securing an amount—
- (a) left outstanding by the purchaser, or
  - (b) advanced to him by an approved lending institution for the purpose of enabling him to acquire the interest disposed of on the first disposal,
- subject to the following provisions.

- (2) An advance which is made for a purpose other than that mentioned in subsection (1) (b) and which is secured by a legal charge having priority to the charge taking effect by virtue of [F7 section 11B ] , and any further advance which is so secured, shall rank in priority to that charge if, and only if, the registered social landlord by notice served on the institution concerned gives consent.

The landlord shall give consent if the purpose of the advance or further advance is an approved purpose.

- (3) The registered social landlord may at any time by notice served on an approved lending institution postpone the charge taking effect by virtue of [F7 section 11B ] to an advance or further advance which—

- (a) is made to the purchaser 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) The covenant required by [F7 section 11B ] does not, by virtue of its binding successors in title of the purchaser, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of that section, or a person deriving title under him.

A provision of the conveyance, grant or assignment, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

- (5) In this section “approved lending institution” means—

- (a) a building society, bank, insurance company or friendly society,
- (b) the [F8 Relevant Authority], or
- [F9(c) an authorised mortgage lender (within the meaning of the Housing Act 1985 (see section 622 of that Act)).]

- (6) The following are “approved purposes” for the purposes of this section—

- (a) to enable the purchaser to defray, or to defray on his behalf, any of the following—
  - (i) the cost of any works to the house,
  - (ii) any service charge payable in respect of the house for works, whether or not to the house, and
  - (iii) any service charge or other amount payable in respect of the house for insurance, whether or not of the house, and
- (b) to enable the purchaser to discharge, or to discharge on his behalf, any of the following—

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- (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 [F7 section 11B ] ,
- (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.

In this subsection “service charge” has the meaning given by section 621A of the Housing Act 1985.

- (7) 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.

#### Textual Amendments

- F7** Words in s. 12 substituted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 199(2)**, 270(3)(a) (with s. 199(3))
- F8** Words in Pt. I substituted (1.11.1998) by [1998 c. 38](#), s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art.5**.
- F9** S. 12(5)(c) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 307(7)**, 325(2)(a)

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

- C4** S. 12 extended (16.9.1996) by [S.I. 1996/2402](#), art. 3, **Sch. paras. 1, 11**

### [F10] 12A Right of first refusal for registered social landlord

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (3) In subsection (2) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  - (a) a registered social landlord which has made a disposal as mentioned in subsection (1), or
  - (b) such other person as is determined in accordance with the regulations,
 a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 12B.
- (5) The disposals within this subsection are—

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- (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
  - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (7) In subsection (6) any reference to the purchaser is a reference to the purchaser or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The limitation imposed by a covenant within subsection (2) is a local land charge.
- (10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.
- (11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
- (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant ceases to apply in relation to the property disposed of.

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#### Textual Amendments

**F10** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by *Housing Act 2004* (c. 34), **ss. 200(1), 270(2)(b), (3)(a)** (with s. 200(3))

### 12B Consideration payable for disposal under section 12A

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 11 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under section 12A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
- (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 12A).]

#### Textual Amendments

**F10** Ss. 12A, 12B inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by *Housing Act 2004* (c. 34), **ss. 200(1), 270(2)(b), (3)(a)** (with s. 200(3))

### 13 Restriction on disposal of houses in National Parks, &c.

- (1) On the disposal by a registered social landlord, in accordance with a consent given by the [<sup>F11</sup>Relevant Authority] under section 9, of a house situated in—
  - (a) a National Park,
  - (b) an area designated under [<sup>F12</sup>section 82 of the Countryside and Rights of Way Act 2000] as an area of outstanding natural beauty, or
  - (c) an area designated as a rural area by order under section 157 of the <sup>M4</sup>Housing Act 1985,

the conveyance, grant or assignment may (unless it contains a condition of a kind mentioned in section 33(2)(b) or (c) of the Housing Act 1985 (right of pre-emption or restriction on assignment) [<sup>F13</sup> or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord) ] ) contain a covenant to the following effect limiting the freedom of the purchaser (including any successor in title



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of his and any person deriving title under him or such a successor) to dispose of the house.

- (2) The limitation is that until such time (if any) as may be notified in writing by the registered social landlord to the purchaser or a successor in title of his, there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord.
- (3) That consent shall not be withheld if the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent—
  - (a) had his place of work in a region designated by order under section 157(3) of the Housing Act 1985 which, or part of which, is comprised in the National Park or area concerned, or
  - (b) had his only or principal home in such a region,or if he has had the one in part or parts of that period and the other in the remainder.

The region need not have been the same throughout the period.
- (4) A disposal in breach of such a covenant as is mentioned above is void.
- (5) The limitation imposed by such a covenant is a local land charge and, <sup>[F14]</sup>if the first disposal involves registration under the Land Registration Act 2002, the Chief Land Registrar shall enter in the register of title a restriction reflecting the limitation].
- (6) In this section “purchaser” means the person acquiring the interest disposed of by the first disposal.
- (7) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c.), any such covenant as is mentioned in this section ceases to apply in relation to the property disposed of.

#### Textual Amendments

- F11** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F12** Words in s. 13(1)(b) substituted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 C. 37, s. 93, Sch. 15 Pt. I para. 14; S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F13** Words in s. 13(1) inserted (18.1.2005) by Housing Act 2004 (c. 34), **ss. 200(2), 270(3)(a)** (with s. 200(3))
- F14** Words in s. 13(5) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 35** (with s. 129); S.I. 2003/1725, art. 2(1)

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

- C5** S. 13 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, 11

#### Marginal Citations

- M4** 1985 c. 68.

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#### 14 Treatment of options.

- (1) For the purposes of sections 9 to 13 the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.
- (2) For the purposes of section 13(2) (requirement of consent to disposal of house in National Park, &c.) consent to such a grant shall be treated as consent to a disposal made in pursuance of the option.

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

C6 S. 14 extended (16.9.1996) by S.I. 1996/2402, art. 3, Sch. paras. 1, 11

#### 15 Relevant and exempted disposals.

- (1) In sections 11 to 14 the expression “relevant disposal which is not an exempted disposal” shall be construed as follows.
- (2) A disposal, whether of the whole or part of the house, is a relevant disposal if it is—
  - (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease or sub-lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack-rent.
- (3) For the purposes of subsection (2)(b) it shall be assumed—
  - (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
  - (b) that any option to terminate a lease or sub-lease is not exercised.
- (4) A disposal is an exempted disposal if—
  - (a) it is a disposal of the whole of the house and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (5));
  - (b) it is a vesting of the whole of the house in a person taking under a will or on an intestacy;
  - (c) it is a disposal of the whole of the house in pursuance of any such order as is mentioned in subsection (6);
  - (d) it is a compulsory disposal (as defined in subsection (7));
  - (e) the property disposed of is a yard, garden, outhouses or appurtenances belonging to a house or usually enjoyed with it.
- (5) For the purposes of subsection (4)(a) a person is a qualifying person in relation to a disposal if—
  - (a) he is the person or one of the persons by whom the disposal is made,
  - (b) he is the spouse or a former spouse <sup>F15</sup>, or the civil partner or a former civil partner, ] of that person or one of those persons, or
  - (c) he is a member of the family of that person or one of those persons and has resided with him throughout the period of twelve months ending with the disposal.
- (6) The orders referred to in subsection (4)(c) are orders under—

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- (a) section 24 or 24A of the <sup>M5</sup>Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings);
  - (b) section 2 of the <sup>M6</sup>Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
  - (c) section 17 of the <sup>M7</sup>Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.); <sup>F16</sup> ...
  - (d) paragraph 1 of Schedule 1 to the <sup>M8</sup>Children Act 1989 (orders for financial relief against parents).<sup>F17</sup>; or
  - (e) Part 2 or 3 of Schedule 5, or paragraph 9 of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders, or orders for the sale of property, in connection with civil partnership proceedings or after overseas dissolution of civil partnership, etc.).]
- (7) For the purposes of subsection (4)(d) a compulsory disposal is a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

#### Textual Amendments

- F15** Words in s. 15(5)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(2\), Sch. 8 para. 50\(2\)](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)
- F16** Word in s. 15(6)(c) repealed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\)\(d\), Sch. 30](#); [S.I. 2005/3175, art. 2\(6\)](#)
- F17** S. 15(6)(e) and word inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(2\), Sch. 8 para. 50\(3\)](#); [S.I. 2005/3175, art. 2\(1\), Sch. 1](#)

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

- C7** S. 15 extended (16.9.1996) by [S.I. 1996/2402, art. 3](#), Sch. paras. 1, 11

#### Marginal Citations

- M5** 1973 c. 18.  
**M6** 1975 c. 63.  
**M7** 1984 c. 42.  
**M8** 1989 c. 41.

### <sup>F18</sup>15A Treatment of deferred resale agreements for purposes of section 11

- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
  - (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.

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- (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal which is not an exempted disposal is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
  - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- “agreement” includes arrangement;
- “the discount repayment period” means the period of three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section).]

#### **Textual Amendments**

**F18** S. 15A inserted (18.11.2004 for specified purposes, 18.1.2005 in so far as not already in force) by [Housing Act 2004 \(c. 34\)](#), **ss. 201(1)**, 270(2)(b), (3)(a) (with s. 201(2))

### *Right of tenant to acquire dwelling*

## **16 Right of tenant to acquire dwelling.**

- (1) A tenant of a registered social landlord has the right to acquire the dwelling of which he is a tenant if—
- (a) he is a tenant under an assured tenancy, other than an assured shorthold tenancy or a long tenancy, or under a secure tenancy,
  - (b) the dwelling was provided with public money and has remained in the social rented sector, and

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- (c) he satisfies any further qualifying conditions applicable under Part V of the <sup>M9</sup>Housing Act 1985 (the right to buy) as it applies in relation to the right conferred by this section.
- (2) For this purpose a dwelling shall be regarded as provided with public money if—
- (a) it was provided or acquired wholly or in part by means of a grant under section 18 (social housing grant),
  - (b) it was provided or acquired wholly or in part by applying or appropriating sums standing in the disposal proceeds fund of a registered social landlord (see section 25), or
  - (c) it was acquired by a registered social landlord after the commencement of this paragraph on a disposal by a public sector landlord at a time when it was capable of being let as a separate dwelling.
- (3) A dwelling shall be regarded for the purposes of this section as having remained within the social rented sector if, since it was so provided or acquired—
- (a) the person holding the freehold interest in the dwelling has been either a registered social landlord or a public sector landlord; and
  - (b) any person holding an interest as lessee (otherwise than as mortgagee) in the dwelling has been—
    - (i) an individual holding otherwise than under a long tenancy; or
    - (ii) a registered social landlord or a public sector landlord.
- [<sup>F19</sup>(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement).]
- (4) A dwelling shall be regarded for the purposes of this section as provided by means of a grant under section 18 (social housing grant) if, and only if, the [<sup>F20</sup>Relevant Authority] when making the grant notified the recipient that the dwelling was to be so regarded.
- The [<sup>F20</sup>Relevant Authority] shall before making the grant inform the applicant that it proposes to give such a notice and allow him an opportunity to withdraw his application within a specified time.
- [<sup>F21</sup>(5) But notice must be taken to be given to a registered social landlord under subsection (4) by the Housing Corporation if it is sent using electronic communications to such number or address as the registered social landlord has for the time being notified to the Housing Corporation for that purpose.
- (6) The means by which notice is sent by virtue of subsection (5) must be such as to enable the registered social landlord to reproduce the notice by electronic means in a form which is visible and legible.
- (7) An electronic communication is a communication transmitted (whether from one person to another, from one device to another, or from a person to a device or vice versa)—
- (a) by means of [<sup>F22</sup>an electronic communications network]; or
  - (b) by other means but while in an electronic form.]

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#### Textual Amendments

- F19** S. 16(3A) inserted (18.1.2005) by [Housing Act 2004 \(c. 34\)](#), **ss. 202(2)**, 270(3)(a) (with s. 202(3))
- F20** Words in Pt. I substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 82(1)(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**.
- F21** S. 16(5)-(7) added (E.) (24.10.2001) by S.I. 2001/3257, **art. 2**
- F22** Words in s. 16(7)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), ss. 408(6), 411(2), **Sch. 17 para. 136** (with [Sch. 18](#)); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), [Sch. 1](#) (with [art. 3](#)) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

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

- C8** S. 16 restricted (1.4.1997) by [Housing Act 1985 c. 68](#), **Pt. V** (see s. 122(4)) as modified by S.I. 1997/619, **art. 2(1)(2)**, [Sch. 1 para. 4](#), **Sch. 2**  
S. 16 applied (10.5.1999) by S.I. 1999/1135, **art. 2**, **Sch.**
- C9** S. 16(2)(c) restricted (5.3.1997) by S.I. 1997/618, **art. 2**, **Sch. para. 1**

#### Marginal Citations

- M9** 1985 c. 68.

### [<sup>F23</sup>16A Extension of section 16 to dwellings funded by grants under section 27A

- (1) Section 16 applies in relation to a dwelling (“a funded dwelling”) provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.
- (2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.
- (3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.
- (4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—
  - (a) by the recipient of the grant mentioned in that subsection, or
  - (b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,
 exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.
- (5) In subsection (4) “relevant time” means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3).]

#### Textual Amendments

- F23** S. 16A inserted (17.2.2005 for E.) by [Housing Act 2004 \(c. 34\)](#), **ss. 221**, 270(4), (5)(c); S.I. 2005/326, **art. 2(b)**

### 17 Right of tenant to acquire dwelling: supplementary provisions.

- (1) The Secretary of State may by order—

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- (a) specify the amount or rate of discount to be given on the exercise of the right conferred by section 16; and
  - (b) designate rural areas in relation to dwellings in which the right conferred by that section does not arise.
- (2) The provisions of Part V of the Housing Act 1985 apply in relation to the right to acquire under section 16—
  - (a) subject to any order under subsection (1) above, and
  - (b) subject to such other exceptions, adaptations and other modifications as may be specified by regulations made by the Secretary of State.
- (3) The regulations may provide—
  - (a) that the powers of the Secretary of State under sections 164 to 170 of that Act (powers to intervene, give directions or assist) do not apply,
  - (b) that paragraphs 1 and 3 (exceptions for charities and certain housing associations), and paragraph 11 (right of appeal to Secretary of State), of Schedule 5 to that Act do not apply,
  - (c) that the provisions of Part V of that Act relating to the right to acquire on rent to mortgage terms do not apply,
  - (d) that the provisions of that Part relating to restrictions on disposals in National Parks, &c. do not apply, and
  - (e) that the provisions of that Part relating to the preserved right to buy do not apply.

Nothing in this subsection affects the generality of the power conferred by subsection (2).
- (4) The specified exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of Part V of that Act as they apply in relation to the right to buy under that Part; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of Part V as they so apply.
- (5) An order or regulations under this section—
  - (a) may make different provision for different cases or classes of case including different areas, and
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate.
- (6) Before making an order which would have the effect that an area ceased to be designated under subsection (1)(b), the Secretary of State shall consult—
  - (a) the local housing authority or authorities in whose district the area or any part of it is situated or, if the order is general in its effect, local housing authorities in general, and
  - (b) such bodies appearing to him to be representative of registered social landlords as he considers appropriate.
- (7) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Status:**

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