



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 3

#### OTHER PROVISIONS

#### CHAPTER 2

#### LANDLORD AND TENANT MATTERS

#### *Leasehold enfranchisement*

#### **300 Right to acquire freehold: abolition of low rent test**

- (1) In section 1(1) of the Leasehold Reform Act 1967 (c. 88) (right to enfranchisement or extension of long leaseholds)—
- (a) in paragraph (a) omit “at a low rent”,
  - (b) before “and” at the end of paragraph (a) insert—
    - “(aa) in the case of a right to acquire an extended lease, his long tenancy is a tenancy at a low rent;”, and
  - (c) in paragraph (b) after “he has” insert “—
    - (i) in the case of a right to acquire the freehold, been tenant of the house under a long tenancy for the last two years; and
    - (ii) in the case of a right to acquire an extended lease.”.
- (2) In that Act—
- (a) in section 1(1A) (excluded tenancies)—
    - (i) for “subsection (1)(a) and (b)” substitute “ subsection (1) ”, and
    - (ii) omit “at a low rent”, and
  - (b) omit—
    - (i) section 1A(2) (certain deemed low rent tenancies),

*Status: Point in time view as at 06/04/2017.*

*Changes to legislation: Housing and Regeneration Act 2008, Cross Heading: Leasehold enfranchisement is up to date with all changes known to be in force on or before 17 June 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)*

(ii) section 1AA (additional right to enfranchisement where tenancy not low rent tenancy), and

(iii) section 4A (alternative rent limits for purposes of section 1A(2)).

#### Commencement Information

**II** S. 300 in force at 7.9.2009 for E. by S.I. 2009/2096, art. 2(2)(a) (with art. 3(1)(2))

### 301 Shared ownership leases: protection for certain leases

(1) After paragraph 3 of Schedule 4A to the Leasehold Reform Act 1967 (exclusion from enfranchisement for certain shared ownership leases granted by housing associations) insert—

“3A (1) A lease which does not fall within paragraph 3 is excluded from the operation of this Part of this Act if the lease—

- (a) meets the conditions mentioned in sub-paragraph (2);
- (b) meets any other prescribed conditions; and
- (c) does not fall within any prescribed exemptions.

(2) The conditions referred to in sub-paragraph (1)(a) are that the lease—

- (a) was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
- (b) was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
- (c) provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
- (d) does not restrict the tenant's powers to mortgage or charge his interest in the house;
- (e) if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed;
- (f) provides for the tenant to acquire the landlord's interest on terms specified in the lease and complying with such requirements as may be prescribed; and
- (g) states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.

(3) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition specified in paragraph (g) of that sub-paragraph is not met.

Certain leases for the elderly ”.

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- (2) For the italic heading before paragraph 3 of that Schedule to that Act substitute— “  
Certain housing association and other leases ”.

#### Commencement Information

- I2** S. 301 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(5\)](#) (with [arts. 6-13](#))  
**I3** [S. 301](#) in force at 7.9.2009 for E. in so far as not already in force by [S.I. 2009/2096](#), [art. 2\(2\)\(b\)](#) (with [art. 3\(1\)\(2\)](#))

### 302 Shared ownership leases: protection for hard to replace houses

- (1) After paragraph 4 of Schedule 4A to the Leasehold Reform Act 1967 (c. 88) (exclusion from enfranchisement for certain shared ownership leases for the elderly) insert—

#### “Certain leases in protected areas

- 4A (1) A lease which does not fall within paragraph 3 or 3A is excluded from the operation of this Part of this Act if—
- the lease meets the conditions mentioned in sub-paragraph (2);
  - any provision in the lease for the tenant to acquire the landlord's interest provides for the tenant to acquire the interest on terms specified in the lease and complying with such requirements as may be prescribed;
  - the lease meets any other prescribed conditions;
  - the lease does not fall within any prescribed exemptions; and
  - the house is in a protected area.
- (2) The conditions referred to in sub-paragraph (1)(a) are that the lease—
- was granted for a term of 99 years or more and is not (and cannot become) terminable except in pursuance of a provision for re-entry or forfeiture;
  - was granted at a premium, calculated by reference to the value of the house or the cost of providing it, of not less than 25 per cent, or such other percentage as may be prescribed, of the figure by reference to which it was calculated;
  - provides for the tenant to acquire additional shares in the house on terms specified in the lease and complying with such requirements as may be prescribed;
  - does not restrict the tenant's powers to mortgage or charge his interest in the house;
  - if it enables the landlord to require payment for outstanding shares in the house, does so only in such circumstances as may be prescribed; and
  - states the landlord's opinion that by virtue of this paragraph the lease is excluded from the operation of this Part of this Act.
- (3) The appropriate national authority may by order made by statutory instrument designate an area as a protected area if it considers it appropriate to do so to support the provision in the area of houses, or

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descriptions of houses, which are available for occupation in accordance with shared ownership arrangements.

- (4) The appropriate national authority must publish the criteria for the time being in force which are to be taken into account by it in deciding whether to designate an area as a protected area.
  - (5) Before making an order under sub-paragraph (3) the appropriate national authority must take such steps as it considers to be reasonable to consult those likely to be affected by the order.
  - (6) In any proceedings the court may, if it considers that it is just and equitable to do so, treat a lease as meeting the conditions mentioned in sub-paragraph (2) despite the fact that the condition mentioned in paragraph (f) of that sub-paragraph is not met.
  - (7) An order under this paragraph may contain such incidental, supplementary, transitory, transitional or saving provisions as the appropriate national authority considers appropriate.
  - (8) In this paragraph “shared ownership arrangements” has the same meaning as in section 70 of the Housing and Regeneration Act 2008.
  - (9) An instrument containing—
    - (a) an order of the Secretary of State under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament;
    - (b) an order of the Welsh Ministers under this paragraph is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (2) In paragraph 5 of that Schedule to that Act (power to prescribe matters by regulations)
- (a) in sub-paragraph (1) for “Secretary of State” substitute “ appropriate national authority ”, and
  - (b) in sub-paragraph (2)—
    - (i) in paragraph (b) for “Secretary of State” substitute “ appropriate national authority ”,
    - (ii) after “which” insert “ , in the case of regulations made by the Secretary of State, ” and
    - (iii) after “Parliament” insert “ and, in the case of regulations made by the Welsh Ministers, shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales ”.
- (3) After paragraph 6 of that Schedule to that Act (interpretation) insert—

- “7 In this Schedule “appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
  - (b) in relation to Wales, the Welsh Ministers.”

#### Commencement Information

**I4** S. 302 in force at 1.12.2008 for specified purposes by [S.I. 2008/3068](#), [art. 4\(5\)](#) (with arts. 6-13)

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- 15** S. 302 in force at 7.9.2009 for E. in so far as not already in force by S.I. 2009/2096, **art. 2(2)(b)** (with art. 3(1)(2))

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