



# Housing and Regeneration Act 2008

## 2008 CHAPTER 17

### PART 3

#### OTHER PROVISIONS

### CHAPTER 2

#### LANDLORD AND TENANT MATTERS

##### *Tenant empowerment*

#### **294 Ballots before certain disposals to private landlords**

- (1) Schedule 3A to the Housing Act 1985 (c. 68) (consultation before disposal to private sector landlord) is amended as follows.
- (2) After paragraph 3(3) insert—
  - “(4) When a notice has been served under sub-paragraph (3) the authority shall arrange a ballot of the tenants in accordance with sub-paragraph (5) to establish whether or not the tenants wish the disposal to proceed.
  - (5) The authority shall—
    - (a) make arrangements for such person as they consider appropriate to conduct the ballot in such manner as that person considers appropriate; or
    - (b) conduct the ballot themselves.
  - (6) After the ballot has been held the authority shall serve a notice on each tenant (whether or not he voted in the ballot) informing him—
    - (a) of the ballot result; and
    - (b) if the authority intend to proceed with the disposal, that he may within 28 days after the service of the notice make representations

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to the Secretary of State or (as the case may be) the Welsh Ministers.”

- (3) In paragraph 5(1)—
- (a) for “it appears to him” substitute “the result of a ballot arranged under paragraph 3(4) shows”, and
  - (b) after “relates” insert “who voted in the ballot”.
- (4) After paragraph 5 insert—

*“Guidance*

- 5A (1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.
- (2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.
- (3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.
- (4) The appropriate person may revoke guidance given under this paragraph.
- (5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.
- (6) In this paragraph “the appropriate person” means—
- (a) in relation to England, the Secretary of State, and
  - (b) in relation to Wales, the Welsh Ministers.”
- (5) Subsections (2) to (4) do not apply to consultations begun before the coming into force of those subsections.
- (6) For the purposes of subsection (5) a consultation has begun when a notice has been served under paragraph 3(2) of Schedule 3A to the Act of 1985.

**295 Management agreements: extending requirements to co-operate**

- (1) Section 27AB of the Housing Act 1985 (c. 68) (management agreements with tenant management organisations) is amended as follows.
- (2) In subsection (2), after paragraph (b), insert—
- “(ba) to provide to the organisation such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;
  - (bb) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the organisation in connection with the proposal;”.
- (3) In subsection (4)—
- (a) in paragraph (a) after “authority” insert “or the person making the regulations”,
  - (b) after paragraph (b), insert—

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- “(ba) setting time-limits for the carrying out of requirements under the regulations;”, and
- (c) in paragraph (c) after “guidance” insert “or directions”.

## **296 Requirements to co-operate in relation to certain disposals of land**

After section 34 of the Housing Act 1985 (c. 68) (consents in relation to disposals of land held for housing purposes) insert—

### **“34A Requirements to co-operate in relation to certain disposals**

- (1) The appropriate person may make regulations for imposing requirements on a local housing authority in any case where a tenant group serves written notice on the authority proposing that the authority should dispose of particular land held by them for the purposes of this Part, or a particular description of such land, to a relevant housing provider.
- (2) The regulations may make provision requiring the authority—
  - (a) to provide, or finance the provision of, such office accommodation and facilities, and such training, as the tenant group reasonably requires for the purpose of pursuing the proposal;
  - (b) to arrange for such feasibility studies with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined;
  - (c) to provide to the tenant group such information or descriptions of information, in connection with the proposal, as may be prescribed in the regulations;
  - (d) to take, in circumstances prescribed in the regulations, such other steps as may be so prescribed to co-operate with the tenant group in connection with the proposal;
  - (e) to arrange for such ballots or polls with respect to the proposal as may be determined by or under the regulations to be conducted by such persons as may be so determined; and
  - (f) in such circumstances as may be prescribed by the regulations, to enter into an agreement for the disposal.
- (3) The regulations may make provision—
  - (a) for determining the houses and other land to which the disposal should relate, and the amounts which should be paid in respect of the disposal;
  - (b) requiring the agreement for the disposal to be in such form as may be approved by the appropriate person and to contain such provisions as may be prescribed by the regulations.
- (4) The regulations may make such procedural, incidental, supplementary and transitional provisions as may appear to the appropriate person necessary or expedient, and may in particular make provision—
  - (a) for particular questions arising under the regulations to be determined by the authority or the appropriate person;
  - (b) setting time-limits for the carrying out of requirements under the regulations;

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- (c) requiring any person exercising functions under the regulations to act in accordance with any guidance or directions given by the appropriate person.
- (5) Nothing in subsections (2) to (4) is to be taken as prejudicing the generality of subsection (1).
- (6) Any regulations which provide for the appropriate person to approve a proposal for a local housing authority to dispose of land must ensure that the authority has the opportunity to make representations to the appropriate person before the appropriate person decides whether or not to approve the proposal.
- (7) This section does not affect any requirement under section 32 or 33 for the consent of the Secretary of State or the Welsh Ministers.
- (8) Regulations under this section—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas; and
  - (b) are to be made by statutory instrument which—
    - (i) in the case of an instrument made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament; and
    - (ii) in the case of an instrument made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (9) In this section—
  - “appropriate person” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;
  - “relevant housing provider” means—
    - (a) in relation to England, a registered provider of social housing; and
    - (b) in relation to Wales, a registered social landlord; and
  - “tenant group” means a body or other person which satisfies such conditions as may be determined by or under the regulations.”

*Family intervention tenancies*

**297 Family intervention tenancies: general**

- (1) In Schedule 1 to the Housing Act 1985 (c. 68) (tenancies which are not secure tenancies) after paragraph 4 insert—

*“Family intervention tenancies*

- 4ZA (1) A tenancy is not a secure tenancy if it is a family intervention tenancy.
- (2) But a tenancy mentioned in sub-paragraph (1) becomes a secure tenancy if the landlord notifies the tenant that it is to be regarded as a secure tenancy.

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- (3) In this paragraph “a family intervention tenancy” means, subject to sub-paragraph (4), a tenancy granted by a local housing authority in respect of a dwelling-house—
- (a) to a person (“the new tenant”) against whom a possession order under section 84 in respect of another dwelling-house—
    - (i) has been made, in relation to a secure tenancy, on ground 2 or 2A of Part 1 of Schedule 2;
    - (ii) could, in the opinion of the authority, have been so made in relation to such a tenancy; or
    - (iii) could, in the opinion of the authority, have been so made if the person had had such a tenancy; and
  - (b) for the purposes of the provision of behaviour support services.
- (4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the local housing authority has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.
- (5) A notice under this sub-paragraph is a notice stating—
- (a) the reasons for offering the tenancy to the new tenant;
  - (b) the dwelling-house in respect of which the tenancy is to be granted;
  - (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
  - (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
  - (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
  - (f) any likely action by the local housing authority if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.
- (6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).
- (7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.
- (9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—

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- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
  - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Subject to this, a statutory instrument containing regulations made under this paragraph—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) In this paragraph—
- “appropriate national authority”—
  - (a) in relation to England, means the Secretary of State; and
  - (b) in relation to Wales, means the Welsh Ministers;
  - “behaviour support agreement” means an agreement in writing about behaviour and the provision of support services made between the new tenant and the local housing authority concerned (or between persons who include those persons);
  - “behaviour support services” means relevant support services to be provided by any person to—
  - (a) the new tenant; or
  - (b) any person who is to reside with the new tenant;
- for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);
- “family intervention tenancy” has the meaning given by sub-paragraph (3);
  - “the new tenant” has the meaning given by sub-paragraph (3)(a);
  - “relevant support services” means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement.”
- (2) In Part 1 of Schedule 1 to the Housing Act 1988 (c. 50) (tenancies which cannot be assured tenancies) after paragraph 12 insert—

*“Family intervention tenancies*

12ZA (1) A family intervention tenancy.

- (2) But a family intervention tenancy becomes an assured tenancy if the landlord notifies the tenant that it is to be regarded as an assured tenancy.
- (3) In this paragraph “a family intervention tenancy” means, subject to sub-paragraph (4), a tenancy granted by a registered provider of social housing or a registered social landlord (“the landlord”) in respect of a dwelling-house—
- (a) to a person (“the new tenant”) against whom a possession order under section 7 in respect of another dwelling-house—

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- (i) has been made, in relation to an assured tenancy, on ground 14 or 14A of Part 2 of Schedule 2;
    - (ii) could, in the opinion of the landlord, have been so made in relation to such a tenancy; or
    - (iii) could, in the opinion of the landlord, have been so made if the person had had such a tenancy; and
  - (b) for the purposes of the provision of behaviour support services.
- (4) A tenancy is not a family intervention tenancy for the purposes of this paragraph if the landlord has failed to serve a notice under sub-paragraph (5) on the new tenant before the new tenant entered into the tenancy.
- (5) A notice under this sub-paragraph is a notice stating—
  - (a) the reasons for offering the tenancy to the new tenant;
  - (b) the dwelling-house in respect of which the tenancy is to be granted;
  - (c) the other main terms of the tenancy (including any requirements on the new tenant in respect of behaviour support services);
  - (d) the security of tenure available under the tenancy and any loss of security of tenure which is likely to result from the new tenant agreeing to enter into the tenancy;
  - (e) that the new tenant is not obliged to enter into the tenancy or (unless otherwise required to do so) to surrender any existing tenancy or possession of a dwelling-house;
  - (f) any likely action by the landlord if the new tenant does not enter into the tenancy or surrender any existing tenancy or possession of a dwelling-house.
- (6) The appropriate national authority may by regulations made by statutory instrument amend sub-paragraph (5).
- (7) A notice under sub-paragraph (5) must contain advice to the new tenant as to how the new tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations made by statutory instrument make provision about the type of advice to be provided in such notices.
- (9) Regulations under this paragraph may contain such transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (10) A statutory instrument containing (whether alone or with other provision) regulations under this paragraph which amend or repeal any of paragraphs (a) to (f) of sub-paragraph (5) may not be made—
  - (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament; and
  - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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(11) Subject to this, a statutory instrument containing regulations made under this paragraph—

- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) In this paragraph—

“appropriate national authority”—

- (a) in relation to England, means the Secretary of State; and
- (b) in relation to Wales, means the Welsh Ministers;

“behaviour support agreement” means an agreement in writing about behaviour and the provision of support services made between the new tenant, the landlord and the local housing authority for the district in which the dwelling-house which is to be subject to the new tenancy is situated (or between persons who include those persons);

“behaviour support services” means relevant support services to be provided by any person to—

- (a) the new tenant; or
- (b) any person who is to reside with the new tenant;

for the purpose of addressing the kind of behaviour which led to the new tenant falling within sub-paragraph (3)(a);

“family intervention tenancy” has the meaning given by sub-paragraph (3);

“landlord” has the meaning given by sub-paragraph (3);

“local housing authority” (and the reference to its district) has the same meaning as in the Housing Act 1985 (see sections 1 and 2(1) of that Act);

“the new tenant” has the meaning given by sub-paragraph (3)(a);

“registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996;

“relevant support services” means support services of a kind identified in a behaviour support agreement and designed to meet such needs of the recipient as are identified in the agreement.”

(3) This section does not apply to any tenancy granted before the coming into force of this section.

## **298 Certain family intervention tenancies: termination**

(1) A local housing authority must not serve a notice to quit on the tenant of a family intervention tenancy unless—

- (a) the authority has served a notice under subsection (2) on the tenant, and
- (b) either—

- (i) the tenant has not requested a review of the kind mentioned in subsection (2)(e) within the period of 14 days beginning with the service of the notice,



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- (ii) any such request has been withdrawn, or
  - (iii) the authority has served a notice on the tenant under subsection (4)(b).
- (2) A notice under this subsection is a notice in writing stating—
  - (a) that the authority has decided to serve a notice to quit on the tenant,
  - (b) the effect of serving a notice to quit,
  - (c) the reasons for the authority’s decision,
  - (d) when the authority is intending to serve the notice to quit, and
  - (e) that the tenant has the right to request, within the period of 14 days beginning with the service of the notice under this subsection, a review of the authority’s decision.
- (3) Subsection (4) applies if the tenant requests a review of the kind mentioned in subsection (2)(e) within the period of 14 days beginning with the service of the notice under subsection (2) and the request is not withdrawn.
- (4) The local housing authority must—
  - (a) review its decision to serve a notice to quit on the tenant, and
  - (b) serve a notice on the tenant informing the tenant of the decision of the authority on the review and the reasons for it.
- (5) The appropriate national authority may by regulations make provision about the procedure to be followed in connection with such a review.
- (6) Regulations under subsection (5) may, in particular—
  - (a) specify the description of person who is to make the decision on a review,
  - (b) specify the circumstances in which the tenant is entitled to an oral hearing on a review,
  - (c) specify whether, and by whom, the tenant is entitled to be represented at such a hearing.
- (7) A notice under subsection (2), and a notice to quit, served by a local housing authority in respect of a family intervention tenancy must contain advice to the tenant as to how the tenant may be able to obtain assistance in relation to the notice.
- (8) The appropriate national authority may by regulations make provision about the type of advice to be provided in such notices.
- (9) In this section—
  - “appropriate national authority” means—
    - (a) in relation to England, the Secretary of State, and
    - (b) in relation to Wales, the Welsh Ministers,
  - “family intervention tenancy” has the same meaning as in paragraph 4ZA of Schedule 1 to the Housing Act 1985 (c. 68),
  - and other expressions used in this section and in paragraph 4ZA of that Schedule have the same meaning as in that paragraph.
- (10) This section does not apply to any tenancy granted before the coming into force of this section.

*Possession orders***299 Possession orders relating to certain tenancies**

Schedule 11 (which makes provision about possession orders and their effect on secure tenancies, assured tenancies, introductory tenancies and demoted tenancies including provision about the status of existing occupiers) has effect.

*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),
    - (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)).

**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;

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- (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”.*

- (2) For the italic heading before paragraph 3 of that Schedule to that Act substitute—

*“Certain housing association and other leases”.*

### **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—
- (a) the lease meets the conditions mentioned in sub-paragraph (2);
  - (b) 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;
  - (c) the lease meets any other prescribed conditions;
  - (d) the lease does not fall within any prescribed exemptions; and
  - (e) the house is in a protected area.
- (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;

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- (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; and
  - (f) 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 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)
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- (a) in sub-paragraph (1) for "Secretary of State" substitute "appropriate national authority", and
  - (b) in sub-paragraph (2)—

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- (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.”

#### *Service charges*

### **303    Service charges: provision of information and designated accounts**

Schedule 12 (which relates to the provision of information about service charges and to service charge funds) has effect.

#### *Right to buy etc: miscellaneous*

### **304    Exclusion of the right to buy: possession orders**

- (1) For section 121(1) of the Housing Act 1985 (c. 68) (circumstances in which the right to buy cannot be exercised) substitute—
- “(1) The right to buy cannot be exercised if the tenant is subject to an order of the court for possession of the dwelling-house.”
- (2) Subsection (1) does not apply where the tenant has served a notice under section 122 of that Act (tenant’s notice claiming to exercise right to buy) before the coming into force of subsection (1) above and the notice is not withdrawn.

### **305    Exclusion of the right to buy: demolition notices**

Schedule 13 (which makes provision about demolition notices) has effect.

### **306    Review of determination of value**

- (1) The Housing Act 1985 is amended as follows.
- (2) After section 128 (determination of value by district valuer) insert—

#### **“128A Determination of value: review notices**

- (1) Subsection (2) applies if the value of a dwelling-house has been determined or re-determined under section 128 (“the section 128 determination”).
- (2) The district valuer may—
- (a) on the valuer’s own initiative; or

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- (b) at the request of the landlord or the tenant of the dwelling-house; serve on the landlord and the tenant a notice of intention to review the section 128 determination giving reasons for the intention (“a review notice”).
- (3) A request under subsection (2)(b) must—
- (a) be in writing;
  - (b) state the reason it is being made; and
  - (c) confirm that the landlord has not made to the tenant a grant of the kind mentioned in section 138(1) in respect of the claim by the tenant to exercise the right to buy in respect of the dwelling-house.
- (4) The landlord or the tenant may not make a request under subsection (2)(b) after the end of the period of 28 days beginning with the section 128(5) service date.
- (5) The district valuer must, before the end of the period of 14 days beginning with the day on which such a request is made, serve on the landlord and the tenant—
- (a) a review notice; or
  - (b) a notice stating—
    - (i) that the request was made;
    - (ii) that the district valuer has decided not to comply with it; and
    - (iii) the reasons for the decision.
- (6) A review notice may not be served after the end of the period of 42 days beginning with the section 128(5) service date.
- (7) A review notice may not be served in relation to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent the service of a review notice in relation to the re-determination).
- (8) A review notice may not be served if the landlord has made a grant of the kind mentioned in subsection (3)(c).
- (9) A person who makes a request under subsection (2)(b) must inform the district valuer if a grant of the kind mentioned in subsection (3)(c) is made during the period of 14 days mentioned in subsection (5).
- (10) Subsection (11) applies if the district valuer is considering whether to serve a review notice on the valuer’s own initiative.
- (11) The landlord or the tenant must, if requested by the district valuer, inform the valuer whether a grant of the kind mentioned in subsection (3)(c) has been made.
- (12) In this section and section 128B—
- “a review notice” has the meaning given by subsection (2);
  - “the section 128 determination” has the meaning given by subsection (1);
  - “the section 128(5) service date” means the day on which the landlord serves a notice on the tenant under section 128(5) in relation to the section 128 determination.

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

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### **128B Review of determination of value**

- (1) The district valuer must review the section 128 determination as soon as reasonably practicable after serving a review notice.
- (2) Subsection (3) applies if, following the review, the district valuer decides that neither of the withdrawal conditions is met.
- (3) The district valuer must, as soon as reasonably practicable, serve on the landlord and the tenant a notice stating—
  - (a) the decision;
  - (b) the reasons for it; and
  - (c) that no further determination or (as the case may be) re-determination is to be made under this section.
- (4) Subsection (5) applies if, following the review, the district valuer decides that either withdrawal condition is met or both are met.
- (5) The district valuer must—
  - (a) as soon as reasonably practicable, withdraw the section 128 determination by serving a further determination notice on the landlord and the tenant; and
  - (b) make a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time.
- (6) Before making such a determination or re-determination, the district valuer must consider any representation made to the valuer by the landlord or the tenant before the end of the period of 14 days beginning with the day on which the further determination notice was served.
- (7) As soon as practicable after such a determination or re-determination has been made, the landlord must serve on the tenant a determination effect notice.
- (8) A determination effect notice is a notice stating—
  - (a) the effect of the further determination or (as the case may be) re-determination; and
  - (b) the matters mentioned in section 125(2) and (3).
- (9) For the purposes of this section, the withdrawal conditions are—
  - (a) that a significant error was made in the section 128 determination; or
  - (b) that the district valuer did not comply with section 128(4) in relation to the section 128 determination.
- (10) This section does not apply to a determination which is subject to a re-determination required in pursuance of section 128(3) (but this does not prevent this section applying to the re-determination).
- (11) In this section—

“a further determination notice” is a notice stating—

  - (a) that the section 128 determination is withdrawn;
  - (b) the reasons for the withdrawal; and

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

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- (c) that a further determination or (as the case may be) re-determination of the value of the dwelling-house at the relevant time will be made;
- “significant error”, in relation to the section 128 determination, means an error of fact, or a number of such errors, made in the section 128 determination as a result of which the value of the dwelling-house determined or (as the case may be) re-determined was at least 5% more or less than it would otherwise have been.”
- (3) In section 125D(2) (period for serving tenant’s notice of intention), in paragraph (b), for the words from “, the service” to the end substitute “(or where the landlord exercises his right to have the value of the dwelling-house re-determined by the district valuer), the relevant event”.
- (4) After section 125D(2) (period for serving tenant’s notice of intention) insert—
- “(3) In subsection (2)(b) “the relevant event” means—
- (a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,
  - (b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the tenant of the notice under section 128B(3), and
  - (c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).”
- (5) In section 128(2) (power of tenant to require determination or re-determination of value) omit “, or as the case may be re-determined,”.
- (6) In section 128(5) (notice of determination or re-determination) for the words from “stating” to the end substitute “stating—
- (a) the effect of the determination or re-determination,
  - (b) the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy), and
  - (c) the effect of section 128A(2) (right of district valuer to serve review notice and of landlord and tenant to request that such a notice is served).”
- (7) After section 128(5) (notice of determination or redetermination) insert—
- “(5A) The landlord shall, as soon as practicable, serve a copy of the notice on the district valuer if—
- (a) the district valuer requests it; or
  - (b) the landlord requests a review of the determination or re-determination under section 128A(2)(b).
- (5B) The tenant shall, as soon as practicable, serve a copy of the notice on the district valuer if the tenant requests a review of the determination or re-determination under section 128A(2)(b).



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

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- (5C) For the purposes of subsections (5A) and (5B) it does not matter whether the request in question was made before, on or after the service of the notice in accordance with subsection (5).”
- (8) In section 136(2) (period for serving notice of intention where there is a change of secure tenant), in paragraph (b), for the words from “, the service” to the end substitute “(or where the right to have the value of the dwelling-house re-determined by the district valuer is or has been exercised by the landlord), the relevant event”.
- (9) After section 136(2) (period for serving notice of intention where there is a change of secure tenant) insert—
- “(2A) In subsection (2)(b) “the relevant event” means—
- (a) where a review notice was capable of being served under section 128A in relation to the determination or re-determination but no such notice was served during the period permitted by that section, the service of the notice under section 128(5) stating the effect of the determination or re-determination,
  - (b) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(3) applied, the service on the new tenant or (as the case may be) the former tenant of the notice under section 128B(3), and
  - (c) where a review notice was served under section 128A in relation to the determination or re-determination and section 128B(5) applied, the service of the notice under section 128B(7).”
- (10) In section 140(4) (circumstances in which landlord’s first notice to complete may not be served), after paragraph (a), insert—
- “(aa) a review notice (within the meaning of section 128A) has been served in relation to such a determination or re-determination, section 128B applies and the district valuer has neither—
- (i) served a notice under section 128B(3) (refusal to make further determination), nor
  - (ii) served a notice under section 128B(7) (a determination effect notice),
- (ab) no such review notice has been served but such a notice may still be served under section 128A.”.
- (11) In section 181(1) (jurisdiction of county court) after “128” insert “, 128B”.
- (12) This section does not apply to any determination or re-determination under section 128 of the Housing Act 1985 (c. 68) which was required before the coming into force of this section.

### **307 Approved lending institutions**

- (1) In section 156 of the Housing Act 1985 (liability to repay is a charge on the premises)
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- (a) in subsection (4) for “and any body specified, or of a class or description specified, in an order made by the Secretary of State” substitute—  
“an authorised mortgage lender.”, and
  - (b) omit subsections (5) and (6).

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

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- (2) In section 622(1) of that Act (minor definitions: general), after the definition of “authorised insurer”, insert—

““authorised mortgage lender” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to enter into a regulated mortgage contract as lender,
- (b) an EEA firm of the kind mentioned in paragraph (5)(b) of Schedule 3 to that Act who has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to enter into a regulated mortgage contract as lender, or
- (c) a Treaty firm within the meaning of Schedule 4 to that Act who has permission under paragraph 4 of that Schedule (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to enter into a regulated mortgage contract as lender;”.

- (3) In section 622(2) of that Act (interpretation of “authorised deposit taker” and “authorised insurer”) for “and “authorised insurer”” substitute “, “authorised insurer” and “authorised mortgage lender””.

- (4) In section 36(4) of that Act (priority of charges: approved lending institutions) for the words from “and any body” to the end substitute—

“an authorised mortgage lender.”

- (5) In section 151B(5) of that Act (priority of charges: approved lending institutions) for the words from “and any body” to the end substitute—

“an authorised mortgage lender.”

- (6) In paragraph 2(5) of Schedule 11 to the Housing Act 1988 (c. 50) (priority of charges: approved lending institutions) for paragraph (e) substitute—

“(e) an authorised mortgage lender (within the meaning of the Housing Act 1985 (see section 622 of that Act)).”

- (7) In section 12(5) of the Housing Act 1996 (c. 52) (priority of charges: approved lending institutions) for paragraph (c) substitute—

“(c) an authorised mortgage lender (within the meaning of the Housing Act 1985 (see section 622 of that Act)).”

### **308 Former right to buy and other flats: service charge loans**

- (1) In section 450C(4) of the Housing Act 1985 (c. 68) (loans in respect of service charges on former right to buy flats and other housing authority flats)—

(a) in paragraph (a) for “as regards the rate of interest payable on” substitute “in a case where a rate of interest is payable on some or all of”, and

(b) after paragraph (a) insert—

“(aa) in a case where amounts calculated by reference to the market value of the flat are payable instead of (or as well as) interest, make provision about calculating the market value of the flat (including imposing charges for the services of district valuers);”.

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- (2) The powers conferred by section 450C(3) of that Act include, in relation to loans made before the coming into force of subsection (1) above, the power to prescribe terms, or (as the case may be) make provision, of the kind envisaged by subsection (1)(b) above.
- (3) But any such terms or provision are not to apply to any particular loan made before the coming into force of subsection (1) above unless the landlord and tenant agree that they are to apply in that case.

### **309 Former right to buy and other flats: equity share purchases**

After section 450C of the Housing Act 1985 (c. 68) (loans in respect of service charges) insert—

*“Other financial assistance in respect of service charges*

#### **450D Purchase of equitable interests**

- (1) The appropriate national authority may by regulations provide that where—
  - (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the housing authority or another housing authority, and
  - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs or improvements (whether to the flat, the building in which it is situated or any other building or land),the landlord may, with the agreement of the tenant and in such circumstances as may be prescribed, purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.
- (2) Regulations under this section shall ensure that the purchase price is to be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned.
- (3) Regulations under this section may, in particular—
  - (a) provide that the power to purchase an equitable interest does not arise in the case of particular descriptions of landlord;
  - (b) make provision about calculating the purchase price (including provision about any discounts and about imposing charges for the services of district valuers);
  - (c) provide for—
    - (i) the tenant to be liable for the administrative expenses of the landlord in connection with the purchase;
    - (ii) such expenses not to exceed such amount (if any) as may be specified in the regulations;
    - (iii) the purchase price to include, at the option of the purchaser, a deduction for such expenses;
  - (d) provide for an alteration, as a result of the purchase of the equitable interest, in the liability of the tenant for future service charges or improvement contributions.

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

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- (4) Regulations under this section may not contain provision for cases where the Secretary of State or the Welsh Ministers are the landlord unless the Welsh Ministers are the landlord—
- (a) as the result of the exercise by them of functions under Part 3 of the Housing Associations Act 1985; or
  - (b) as the result of—
    - (i) the exercise by the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation of functions under Part 3 of the Act of 1985; and
    - (ii) the transfer of the flat to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the Government of Wales Act 2006.
- (5) For the purposes of this section a long lease granted or assigned by—
- (a) the Welsh Ministers, or
  - (b) in a case falling within subsection (4)(b), the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation,
- shall be taken to have been granted or assigned by a housing authority if (but only if) the person concerned granted or assigned it in exercise of its powers under section 90 of the Housing Associations Act 1985.
- (6) This section does not affect any other power of the landlord to purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.
- (7) Regulations under this section may apply whenever the lease concerned was granted or assigned and whenever the service charge concerned became payable.
- (8) Regulations under this section—
- (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases or descriptions of case including different provision for different areas;
  - (c) may contain such incidental, supplementary and transitional provisions as the appropriate national authority considers appropriate.
- (9) An instrument containing regulations made under this section—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) In this section—
- “appropriate national authority” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;
  - “former National Assembly for Wales” means the Assembly constituted by the Government of Wales Act 1998;
  - “housing authority”—

- (a) does not include a registered provider of social housing, or a registered social landlord, which is a co-operative housing association;
  - (b) includes a co-operative housing association which is neither a registered provider of social housing nor a registered social landlord;
- “improvement contribution” has the same meaning as in Part 5 (see section 187);
- “repairs” includes works for making good a structural defect.”

### **310 Other amendments**

- (1) In paragraph 11(5B) of Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy for certain accommodation for the elderly: appeals etc. to the High Court possible by virtue of disapplication of section 231(4) of the Housing Act 2004 (c. 34)) for “Section 231” substitute “Section 231(1), (2), (3) and (5)”.
- (2) Subsection (1) does not apply to—
  - (a) appeals begun, or cases stated and signed, before the coming into force of that subsection, or
  - (b) rights of appeal, or rights to have a case stated and signed, which have accrued before that time.
- (3) In paragraph 5 of Schedule 5A to the Housing Act 1985 (service of initial demolition notices) for “Schedule 13” substitute “Schedule 5”.

#### *Other*

### **311 Disposals of dwelling-houses by local authorities**

Schedule 14 (which makes provision about the requirements for consent for disposals of dwelling-houses by local authorities) has effect.

### **312 Financial assistance for information and other services**

- (1) In section 94(1) of the Housing Act 1996 (c. 52) (financial assistance for provision of general legal advice about residential tenancies and advice about estate management schemes in connection with enfranchisement)—
  - (a) after “person of” insert “information, training or”,
  - (b) after “about” insert “, or a dispute resolution service in connection with”,
  - (c) at the end of paragraph (a), after “tenancies,”, insert—
    - “(aa) any other matter relating to residential tenancies,”, and
  - (d) in paragraph (b), at the beginning, insert “any matter relating to”.
- (2) In the heading of section 94 of that Act (and the italic cross-heading before it) for “legal advice” substitute “advice etc.”.