

1987 No. 1940

LANDLORD AND TENANT

**The Housing Association Shared Ownership Leases
(Exclusion from Leasehold Reform Act 1967 and Rent
Act 1977) Regulations 1987**

<i>Made</i> - - - -	<i>13th November 1987</i>
<i>Laid before Parliament</i>	<i>20th November 1987</i>
<i>Coming into force</i>	<i>11th December 1987</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by paragraph 5 of Schedule 4A to the Leasehold Reform Act 1967(a) and section 5A(3) of the Rent Act 1977(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Housing Association Shared Ownership Leases (Exclusion from Leasehold Reform Act 1967 and Rent Act 1977) Regulations 1987 and shall come into force on 11th December 1987.
2. The requirements or circumstances prescribed, for the purposes of the conditions in paragraph 3(2)(c), (e) and (f) of Schedule 4A ("Schedule 4A") to the Leasehold Reform Act 1967 and the conditions in section 5A(2)(c), (e) and (f) of the Rent Act 1977, are those set out in Schedule 1 to these Regulations.
3. The matters prescribed for the purposes of paragraph 4 of Schedule 4A are those set out in Schedule 2.

9th November 1987

Nicholas Ridley
Secretary of State for the Environment

13th November 1987

Peter Walker
Secretary of State for Wales

(a) 1967 c.88; Schedule 4A was inserted by paragraph 6 of Schedule 4 to the Housing and Planning Act 1986 (c.63).
(b) 1977 c.42; section 5A was inserted by paragraph 1 of Schedule 4 to the Housing and Planning Act 1986.

SHARED OWNERSHIP LEASES (GENERAL)

Definition

1. In this Schedule "market value price" means the amount agreed between or determined in a manner agreed between the parties or, in default of such agreement or determination, determined by an independent expert agreed between the parties or, in default of agreement, appointed on the application of either party by or on behalf of the President of the Royal Institution of Chartered Surveyors, as the amount which the interest of the tenant would fetch, if sold on the open market by a willing vendor, on the assumption that the tenant had previously purchased 100 per cent. of the shares in the dwelling-house, disregarding the following matters—

- (i) any mortgage of the tenant's interest;
- (ii) any interest in or right over the dwelling-house created by the tenant;
- (iii) any improvement made by the tenant or any predecessor in title of his;
- (iv) any failure by the tenant or any predecessor in title to carry out any repairing obligations under the lease.

Requirements relating to Condition (c)

2. The requirements as to the provision for the tenant to acquire additional shares in the dwelling-house are that—

- (a) the tenant is to be entitled to acquire additional shares up to a maximum of 100 per cent., in instalments of 25 per cent. or such lesser percentage, if any, as may be specified in the lease;
- (b) the tenant is to be able to exercise this entitlement by serving notice in writing on the landlord at any time during the term of the lease, stating the additional shares he proposes to acquire;
- (c) the price for the additional shares is to be an amount no greater than the same percentage of the market value price at the date of service of the tenant's notice under sub-paragraph (b) above, as the percentage of the additional shares;
- (d) the rent payable by the tenant under the lease (excluding any amount payable, directly or indirectly, for services, repairs, maintenance, insurance or management costs) is to be reduced, upon the purchase of any additional shares, in the same proportion as the reduction in the percentage of shares remaining unpurchased by the tenant.

Circumstances relating to Condition (e)

3.—(1) If the lease enables the landlord to require payment for the outstanding shares in the dwelling-house, the circumstances in which the landlord is entitled so to do shall be that—

- (a) there has been a disposal, other than an exempt disposal, of any interest in the dwelling-house by the tenant;
- (b) the amount payable by the tenant is an amount no greater than the same percentage of the market value price at the date of the disposal as the percentage of the shares in the dwelling-house remaining unpurchased by the tenant.

(2) In sub-paragraph (1) above, "exempt disposal" means—

- (a) a disposal under a will or intestacy;
- (b) a disposal under section 24 of the Matrimonial Causes Act 1973(a) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975(b);
- (c) a grant of a sub-tenancy in respect of which a notice has been given under section 52(1)(b) of the Housing Act 1980(c) (notice that a tenancy is to be a protected shorthold tenancy) or of a kind mentioned in any of Cases 11 to 18 or 20 in Schedule 15 to the Rent Act 1977(d);
- (d) a grant of a sub-tenancy of part of the dwelling-house, if any other part of the dwelling-house remains in the possession of the tenant;
- (e) a grant of a mortgage.

(a) 1973 c.18.

(b) 1975 c.63.

(c) 1980 c.51.

(d) 1977 c.42. Case 11 was amended by the Housing Act 1980 (c.51) and the Rent (Amendment) Act 1985 (c.24). Case 12 was amended by and Case 20 inserted by the Housing Act 1980.

Requirements relating to Condition (f)

4. The provision in the lease of a house for the tenant to acquire the landlord's interest shall—
 - (a) be exercisable at any time by the tenant by giving notice in writing, to take effect not before he has acquired 100 per cent. of the shares in the dwelling-house;
 - (b) require the landlord's interest to be transferred, as soon as practicable after the coming into effect of the notice mentioned in sub-paragraph (a) above, to the tenant or to such other person as the tenant may direct;
 - (c) not entitle the landlord to make any charge for the conveyance or assignment of his interest.

SCHEDULE 2

Article 3

LEASES FOR THE ELDERLY

Definition

1. In paragraph 4 of Schedule 4A and in this Schedule, "lease for the elderly" means a lease to a person of or over the age of 55 at the date of the grant of the lease.

Requirements as respects leases for the elderly

2. The prescribed requirements for the purposes of the condition in paragraph 4(2)(b) of Schedule 4A are that a lease for the elderly—
 - (a) shall contain a covenant by the landlord to provide the tenant with facilities which consist of or include access to the services of a warden and a system for calling him;
 - (b) shall contain an absolute covenant by the tenant not to underlet the whole or part of the demised premises;
 - (c) shall contain a covenant by the tenant not to assign or part with possession of the whole or part of the demised premises except—
 - (i) subject to such conditions as the lease may specify, to a person of or over the age of 55 at the date of the assignment; or
 - (ii) where the assignment is—
 - (a) by an executor or administrator of a deceased tenant to that tenant's spouse if residing there at the date of the tenant's death, or to a person residing there with the tenant at that date who is of or over the age of 55 at the date of the assignment; or
 - (b) if the lease so provides and subject to such conditions as the lease may specify, by a mortgagee or chargee exercising his power of sale;
 - (d) shall not provide for the tenant to acquire the interest of the landlord under an option to purchase.
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EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 4 to the Housing and Planning Act 1986 introduces amendments to the Leasehold Reform Act 1967, the Rent (Agriculture) Act 1976 (c.80) and the Rent Act 1977, whereby certain shared ownership leases are excluded from the provisions of those Acts. Leases granted by housing associations, which fulfil the conditions respectively set out in paragraphs 3(2) and 4(2) of Schedule 4A to the 1967 Act and section 5A(2) of the 1977 Act (or that section as modified by the 1976 Act) are so excluded. Those conditions relate to the terms of the leases in question and provide for certain additional requirements and circumstances to be prescribed in regulations made by the Secretary of State. No other percentage is prescribed for the purposes of paragraph 3(2)(b) of Schedule 4A to the 1967 Act or section 5A(2)(b) of the 1977 Act.

These Regulations prescribe the necessary additional requirements and circumstances. They also prescribe the meaning of the expression "lease for the elderly" used in paragraph 4 of Schedule 4A.

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