
STATUTORY INSTRUMENTS

1992 No. 1704

HOUSING, ENGLAND AND WALES

The Housing (Right to Buy) (Mortgage Limit) Regulations 1992

<i>Made</i>	- - - -	<i>15th July 1992</i>
<i>Laid before Parliament</i>		<i>16th July 1992</i>
<i>Coming into force</i>	- -	<i>17th August 1992</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 on them by section 133(3) and (6) of the Housing Act 1985(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing (Right to Buy) (Mortgage Limit) Regulations 1992 and shall come into force on 17th August 1992.

(2) In these Regulations, unless the context otherwise requires—

- (a) “the Act” means the Housing Act 1985;
- (b) “social fund payment” means a payment under section 138 of the Social Security Contributions and Benefits Act 1992(2);
- (c) “tenant” means a person to whom the right to a mortgage under section 132 belongs;
- (d) a reference to a numbered section is to the section so numbered in the Act; and
- (e) a reference to a numbered regulation is to the regulation in these Regulations bearing that number.

Available annual income

2. The amount to be taken into account as a tenant’s available annual income under section 133 (which provides for the amount to be secured by mortgage) is to be calculated by adding together the amounts which in accordance with regulations 3 to 5 are to be taken into account as his annual income and deducting from the total sums related to his commitments calculated in accordance with regulation 6.

(1) 1985 c. 68.
(2) 1992 c. 4.

Income from employment

3.—(1) This regulation applies to income from an employment.

(2) The amount to be taken into account as income to which this regulation applies is the tenant's current annual pay, namely his current pay expressed as an annual amount or, where that amount does not fairly represent his current annual pay, such amount as does.

(3) In this regulation—

“employment” includes a part-time employment and an office but does not include a casual or temporary employment; and

“pay” includes any commission, bonus, allowance (other than an expense allowance), tip, gratuity or other payment made to the tenant in connection with his employment but does not include any benefit in kind; and references to pay are references to it before any statutory or other deduction has been made.

Income from a business

4.—(1) This regulation applies to income from any business (including any trade, profession or vocation) carried on by the tenant, whether or not with any other person.

(2) The amount to be taken into account as the tenant's annual income from the business is an amount which, having regard to the latest available information, fairly represents the current annual net pre-tax profit of the business or, if the tenant shares the net profit with any other person, his share of the net pre-tax profit.

Other income

5.—(1) This regulation applies to income from any source to which regulation 3 or 4 does not apply.

(2) Subject to the following paragraph, the amount to be taken into account as the tenant's annual income from a source to which this regulation applies is the amount which before any statutory or other deduction represents the tenant's current income from that source expressed as an annual amount.

(3) No account shall be taken of any income-related benefit specified in section 123(1) of the Social Security Contributions and Benefits Act 1992, of any social fund payment under section 138 of that Act, of unemployment benefit under Part II of that Act or of child benefit within the meaning of Part IX of that Act.

Sums related to commitments

6. The sums related to a tenant's commitments are the total annual amounts currently payable by him—

- (a) under any written agreement, in respect of the maintenance of his spouse or former spouse or of any dependent child of his under the age of 16;
- (b) under any loan agreement, hire purchase agreement or other agreement for credit;
- (c) under any order of a court; or
- (d) in repayment of an award of a social fund payment,

where liability to make payments is likely to continue for more than eighteen months from the date on which the tenant's notice under section 134 (tenant's notice claiming to exercise right to a mortgage) was served.

Estimates

7.—(1) The landlord, or, if the landlord is a housing association, the Corporation, may accept any estimate made for the purposes of regulations 3 to 6.

(2) In this regulation “the Corporation” has the meaning assigned by section 2A of the Housing Associations Act 1985(3).

Multipliers

8.—(1) This regulation specifies the appropriate factor to be applied as a multiplier of a tenant’s available annual income in order to ascertain the limit referred to in subsection (2) of section 133.

(2) Where the tenant’s income is the principal income, the factor appropriate to his available annual income is that specified in column (2) below being appropriate to his age on the date of service of the notice under section 122 (tenant’s notice claiming to exercise the right to buy) as specified in column (1) below—

(1) Tenant’s age	(2) Factor
Under 60	2.5
60 or over but under 65	2.0
65 or over	1.0

(3) If the tenant’s income is not the principal income, the factor appropriate to his available income is 1.

(4) Subject to the following paragraph, a tenant’s income is the principal income for the purposes of this regulation if he is the only tenant with income or, where there is more than one tenant with income, if calculating the limit referred to in section 133 on the assumption that his is the principal income gives no lesser sum as that limit than is given by calculating it on the assumption that any other tenant’s income is the principal income.

Revocation and saving

9.—(1) Subject to the following paragraph, the Housing (Right to Buy) (Mortgage Limit) Regulations 1980(4) are hereby revoked.

(2) Those Regulations shall continue to apply in any case where the tenant’s notice under section 122 (tenant’s notice claiming to exercise the right to buy) was served before 17th August 1992.

(3) For the purposes of the preceding paragraph, no account shall be taken of any steps taken under section 177 (errors and omissions in notices).

15th July 1992

Michael Howard
Secretary of State for the Environment

(3) 1985 c. 69; section 2A was added by the Housing Act 1988 (c. 50), Schedule 6, paragraph 1.

(4) S.I.1980/1423, which was retained in force by section 2 of the Housing (Consequential Provisions) Act 1985 (c. 71).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

15th July 1992

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the calculation of the tenant's available annual income and specify the appropriate factor by which it must be multiplied to arrive at the limit which applies under section 133 of the Housing Act 1985 to a mortgage for a tenant buying his home under that Act who has a right to a mortgage.

Regulation 2 provides that the tenant's available annual income is to be calculated by taking his annual income and deducting from it sums related to his commitments.

Regulations 3, 4 and 5 deal with the method of calculating the amounts to be taken into account as the tenant's annual income, and regulation 6 provides for the deductions to be made for the tenant's commitments.

Regulation 7 provides for the acceptance of estimates, and regulation 8 specifies the multipliers to be applied to the tenant's available annual income to arrive at the mortgage limit.

Regulation 9 revokes the Housing (Right to Buy) (Mortgage Limit) Regulations 1980 with a saving for cases where the tenant's notice under section 122 of the Housing Act 1985 (tenant's notice claiming to exercise right to buy) was served before 17th August 1992.

The principal changes made by these Regulations relate to income which is not to be taken into account as the tenant's annual income (regulation 5(3)) and to the ascertainment of the principal income for the purpose of applying the relevant multiplier (regulation 8).