
STATUTORY INSTRUMENTS

1992 No. 1708

HOUSING, ENGLAND AND WALES

The Housing (Service Charge Loans) 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 sections 450A, 450B and 450C 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 (Service Charge Loans) Regulations 1992 and shall come into force on 17th August 1992.

(2) In these Regulations—

- (a) “the Act” means the Housing Act 1985,
“lender”, in relation to the tenants of a housing association, means the Corporation,
and in other cases means the landlord; and
- (b) any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations.

The right to a loan in certain cases after exercise of right to buy

2.—(1) Subject to regulations 3 and 4, a tenant has a right to a loan in respect of service charges to which section 450A(2) of the Act (charges in respect of repairs for a certain period) applies where—

- (a) a lease of a flat has been granted in pursuance of Part V of the Act (the right to buy) (except in a case where the grant is in pursuance of the preserved right to buy within the meaning of that part);
- (b) the landlord is the housing authority who granted the lease or another housing authority;
and

(1) 1985 c. 68; sections 450A, 450B and 450C were inserted by section 5 of the Housing and Planning Act 1986 (c. 63), and sections 450A and 450B were amended by the Housing Act 1988 (c. 50), Schedule 17, paragraphs 56, 57 and 106.

- (c) a demand for such charges is made on or after the date on which these Regulations come into force.
- (2) The right to a loan is—
 - (a) where the landlord is a housing association, a right to an advance from the Corporation; and
 - (b) in any other case, a right to leave the whole or part of the service charges outstanding.

The amount of a loan to which regulation 2 applies

- 3.—(1) Subject to the following paragraphs, the right to a loan under regulation 2—
- (a) arises only in respect of so much of a service charge to which section 450A applies as
 - (i) exceeds £1,500 less the amount of any service charge already demanded under the lease in respect of the same accounting period as that charge; and
 - (ii) does not exceed £20,000 less the amount of any outstanding loan which has been made in pursuance of the right to a loan under regulation 2; and
 - (b) does not arise unless the amount thus qualifying for a loan itself exceed £500.
- (2) In paragraph (1)(a), “accounting period” means—
- (a) where the lease provides for service charges to be payable by reference to a specified annual period, the first such period and any subsequent specified annual period, ending with the end of the tenth specified annual period beginning after the grant of the lease; or
 - (b) in any other case, the period of twelve months beginning with the grant of the lease and any of the next nine consecutive periods of twelve months each of which begins on an anniversary of that grant.
- (3) If the retail prices index for January immediately preceding an index linked period is higher than it was for January 1992, then paragraph (1) shall apply in relation to any demand for service charges made during that index linked period as if for each amount there specified (“the specified amount”) there were substituted the amount arrived at by increasing the specified amount by the same percentage as the percentage increase in the retail prices index between January 1992 and the January immediately preceding that index linked period; and, if the amount arrived at is not a multiple of £10, it shall be rounded up to the nearest amount which is such a multiple.
- (4) In paragraph (3) above—
- (a) “index linked period” means a period of twelve months beginning on 1st April 1993 and each subsequent period of twelve months; and
 - (b) “the retail prices index” means the United Kingdom General Index of Retail Prices (for all items) compiled by the Central Statistical Office.

Procedure for exercising the right to a loan

- 4.—(1) A demand for service charges in respect of repairs shall inform the tenant whether, in the landlord’s opinion, the tenant is entitled to a loan under regulation 2 and, if he is, what he must do to claim it.
- (2) Any claim by the tenant to the right to a loan under regulation 2 shall be made by notifying the lender in writing to that effect within the period of six weeks beginning on the date the demand for service charges in respect of repairs to which the claim relates was given.
- (3) On the right being claimed the lender shall inform the tenant of the terms of the loan and of the period within which the tenant may accept the offer.

(4) The tenant may accept the offer by notifying the lender in writing to that effect within the period of four weeks beginning on the date on which the lender informed the tenant as mentioned in paragraph (3).

The power to make loans in other cases

5.—(1) Subject to the following provisions of these Regulations, a landlord or, where the landlord is a housing association, the Corporation may make a loan to a tenant in respect of service charges in respect of repairs where—

- (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority; and
 - (b) the tenant is liable under the terms of the lease to pay those charges (whether the repairs are to the flat, the building in which it is situated or any other building or land).
- (2) The power to make a loan is—
- (a) where the landlord is a housing association, a power of the Corporation to make an advance; and
 - (b) in any other case, a power of the landlord to leave the whole or part of the service charges outstanding.

Terms of loans

6.—(1) A loan made in pursuance of the right to a loan under regulation 2 shall, subject to paragraph (3), be on the terms prescribed in Schedule 1 to these Regulations.

(2) A loan made by virtue of the power to make a loan under regulation 5 shall, subject to paragraph (3), be on such terms as the lender may determine.

(3) A loan under these Regulations shall, as regards the rate of interest payable on it and the administrative expenses of the lender in connection with it, be subject to the provisions of Schedule 2 to these Regulations.

Security for loans

7. A loan under these Regulations shall be secured by a mortgage of the flat in question but may be made whether or not the flat is adequate security for the loan.

15th July 1992

Michael Howard
Secretary of State for the Environment

15th July 1992

David Hunt
Secretary of State for Wales

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

SCHEDULE 1

Regulation 6(1)

TERMS OF LOAN IN PURSUANCE OF THE RIGHT TO A LOAN

1. Repayment of the amount secured shall be made in equal instalments of principal and interest combined.

2.—(1) The period over which repayment is to be made shall be—

- (a) three years, in respect of a loan of less than £1,500;
- (b) five years, in respect of a loan of £1,500 or above but less than £5,000;
- (c) ten years, in respect of a loan of £5,000 or above;

or, at the option of the borrower, a shorter period.

(2) For ascertaining the period of repayment, the amount of the loan is the aggregate of the amount of the loan made in pursuance of the right to a loan under regulation 2 and the amount of any loan made under regulation 5 in respect of any part of the service charge which does not qualify for a loan in pursuance of the right.

SCHEDULE 2

Regulation 6(3)

INTEREST RATES AND ADMINISTRATIVE EXPENSES

The rate of interest

1. The rate of interest payable on the loan shall be such reasonable rate as may be determined by the lender except where the lender is a local authority in which case the provisions of Schedule 16 to the Act shall apply.

Administrative expenses

2. Subject to paragraph 3, the administrative expenses of the lender, or any part of them, in connection with a loan may be charged by the lender to the borrower.

3. In a case where a loan is made solely in pursuance of the right to a loan the administrative expenses may be charged by the lender to the borrower to the extent that they do not exceed £100.

4. The expenses so charged in accordance with paragraphs 2 and 3 above, may—

- (a) at the option of the borrower in the case of a loan under regulation 2 (the right to a loan), and
- (b) at the option of the lender in the case of a loan under regulation 5 (the power to make loan),

be added to the amount of the loan.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for housing authorities (as defined in sections 450A and 450B of the Housing Act 1985) to make loans to their tenants in respect of service charges for repairs.

Regulation 2 gives tenants of flats a right to a loan in respect of service charges for repairs where the lease was granted under Part V of the Housing Act 1985 (the right to buy), but not the preserved right to buy, and the landlord is a housing authority. Regulation 3 specifies minimum qualifying amounts for the relevant service charges and for the loan, and provides for the amounts to be index linked. The procedure for exercising the right is dealt with in regulation 4.

Regulation 5 empowers housing authorities to make loans in respect of service charges for repairs.

Regulation 6 and Schedules 1 and 2 make provision for the terms of loans under regulations 2 and 5. Regulation 7 provides that the loans shall be secured.

The United Kingdom General Index of Retail Prices (for all items) for January in each year, to which the amounts specified in regulation 3 are index linked, is published each March in the Monthly Digest of Statistics for February by Her Majesty's Stationery Office.