

---

STATUTORY INSTRUMENTS

---

**1993 No. 2241**

**HOUSING, ENGLAND AND WALES**

**The Housing (Preservation of Right to Buy) Regulations 1993**

*Made* - - - - *9th September 1993*  
*Laid before Parliament* *20th September 1993*  
*Coming into force* - - *11th October 1993*

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 section 171C of the Housing Act 1985(1) and of all other powers enabling them in that behalf, hereby make the following Regulations—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Housing (Preservation of Right to Buy) Regulations 1993 and shall come into force on 11th October 1993.

(2) These Regulations shall not apply in a case where a notice under section 122(1) of the Housing Act 1985 as it applies where the right to buy is preserved (qualifying person's notice claiming to exercise the right to buy) was served before these Regulations come into force.

**Modifications to the Right to Buy**

2.—(1) Subject to regulation 3 below, Part V of the Housing Act 1985 (the right to buy) as it applies in the circumstances described in section 171A(1) of the Housing Act 1985(2) (cases in which right to buy is preserved) has effect subject to the exceptions, adaptations and other modifications specified in Schedule 1 to these Regulations.

(2) Subject to regulation 3, Part V of the Housing Act 1985 as it applies by virtue of paragraph (1) is set out in Schedule 2 to these Regulations.

---

(1) 1985 c. 68; section 171C was inserted by section 8 of the Housing and Planning Act 1986 (c. 63), was amended by section 127 of and paragraph 106 of Part II of Schedule 17 to the Housing Act 1988 (c. 50) and paragraph 19 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), and partly repealed by Schedule 22 to the 1993 Act.  
(2) Section 171A was inserted by section 8 of the Housing and Planning Act 1986.

### Transitional Provisions

3.—(1) In a case where section 142 of the Housing Act 1985 (entitlement to defer completion) continues to apply<sup>(3)</sup>, Part V of that Act has effect as provided for in regulation 2(1) above subject to the exceptions, adaptations and other modifications specified in Schedule 3 to these Regulations.

(2) Part V of the Housing Act 1985 as it applies by virtue of paragraph (1) is set out in Schedule 2 to these Regulations subject to the additional provisions or provisions in substitution set out in Schedule 4 to these Regulations.

### Revocations

4. The following Regulations are revoked—

the Housing (Preservation of Right to Buy) Regulations 1989<sup>(4)</sup>;

the Housing (Preservation of Right to Buy) (Amendment) Regulations 1989<sup>(5)</sup>;

the Housing (Preservation of Right to Buy) (Amendment) Regulations 1990<sup>(6)</sup>; and

the Housing (Preservation of Right to Buy) (Amendment) Regulations 1992<sup>(7)</sup>.

Signed by authority of the Secretary of State

8th September 1993

*G. S. K. Young*  
Minister of State,  
Department of the Environment

9th September 1993

*John Redwood*  
Secretary of State for Wales

---

<sup>(3)</sup> See paragraph 5 of Schedule 1 to S.I. [1993/2134 \(c. 1\)](#).

<sup>(4)</sup> S.I. [1989/368](#).

<sup>(5)</sup> S.I. [1989/512](#).

<sup>(6)</sup> S.I. [1990/178](#).

<sup>(7)</sup> S.I. [1992/1709](#).

SCHEDULE 1

Regulation 2(1)

MODIFICATIONS TO PART V OF THE HOUSING ACT 1985

PART I

EXCEPTIONS AND ADAPTATIONS

1.—(1) Subject to the following provisions of this paragraph, in the provisions of Part V, for the expression “secure tenant” and “tenant” substitute the expression “qualifying person”.

(2) Sub-paragraph (1) does not apply—

(a) to the references to secure tenant in—

section 171A(8),  
section 185, and  
Schedule 9A(9), paragraph 1;

(b) to the references to tenant in—

section 125A(2)(b), (3)(a)(10),  
section 125B(11),  
section 138(2) (second reference only),  
section 158(1),  
section 171B(12),  
section 171H(1)(13),  
section 175(1)(14),  
section 187(15), the definition of “improvement contribution”,  
Schedule 4, paragraphs 2 (the final word only), 6(1), 9 and 10,  
Schedule 6, Part III(16), and  
Schedule 9A, paragraph 7(3);

(c) to the expressions “former secure tenant”, “joint tenant”, “new tenant”, “public sector tenant”, “tenant condition” and “tenant’s incumbrances”;

(d) to the expressions “secure tenant” and “tenant” when used in a modification made by these Regulations.

(3) In Schedule 6, Part III, for “tenant” substitute the expression “qualifying person” in the following paragraphs—

paragraph 13 (both references),

---

(8) Section 171A was inserted by section 8 of the Housing and Planning Act 1986.

(9) Schedule 9A was inserted by section 8(2) and Schedule 2 to the Housing and Planning Act 1986.

(10) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.

(11) Section 125B was inserted by section 4(2) of the Housing and Planning Act 1986.

(12) Section 171B was inserted by section 8 of the Housing and Planning Act 1986 and was amended by section 127(1) of the Housing Act 1988.

(13) Section 171H was inserted by section 8 of the Housing and Planning Act 1986 and subsection (1) was partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(14) Section 175(1) was amended by paragraph 20 of the Schedule to S.I. 1990/434.

(15) In section 187 the definition of “improvement contribution” was inserted by paragraph 30 of Schedule 5 to the Housing and Planning Act 1986.

(16) Part III of Schedule 6 was amended by section 4 of and paragraph 41 of Schedule 5 to the Housing and Planning Act 1986, and partly repealed by Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

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

paragraph 16 (first reference only).

2.—(1) Subject to the following provisions of this paragraph, in the provisions of Part V, for the expression “dwelling-house” or “dwelling-houses” substitute the expression “qualifying dwelling-house” or “qualifying dwelling-houses”.

(2) Sub-paragraph (1) does not apply—

(a) to the references to dwelling-house in—

section 127(4)(c),  
 section 130(2)(a), (aa)(17), and (6),  
 section 171A to 171H(18),  
 section 183,  
 section 184(19),  
 section 187, the definition of “improvement”(20),  
 section 188(21),  
 Schedule 4, paragraphs 2–4, 6, 7A(22) and 9,  
 Schedule 5, paragraph 5(2),  
 Schedule 9A(23);

(b) to the references to dwelling-houses in—

Schedule 5, paragraphs 7, 9 to 10, Section 171B, Schedule 9A;

(c) to the expressions “another dwelling-house”, “existing dwelling-house” and “new dwelling-house”, “previous dwelling-house” and “relevant dwelling-house”;

(d) to the expression “dwelling-house” when used in a modification made by these Regulations.

3. Omit section 118(2) (the right to buy).

4. In section 119(2) (qualifying period for right to buy), for “Where the secure tenancy is a joint tenancy” substitute “Where the tenancy held by the qualifying person is a joint tenancy”.

5. At the end of section 122 (qualifying person’s notice claiming to exercise right to buy) add—

“(4) Where the qualifying dwelling-house is occupied by two or more qualifying persons as joint tenants the right to buy may be exercised by such one or more of them as may be agreed between them.”.

6. For section 123(3) (claim to share right to buy with members of family) substitute—

(17) Section 130(2)(a) was amended and subsection (2)(aa) was substituted by paragraph 29 of Schedule 5 to the Housing and Planning Act 1986.

(18) Sections 171A to H were inserted by section 8 to the Housing and Planning Act 1986. Section 171B was amended by section 127(1) of the Housing Act 1988; section 171C was amended by paragraph 19 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993; section 171H was partly repealed by Schedule 22 to the 1993 Act.

(19) Section 184 was amended by paragraph 24 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(20) In section 187 the definition of “improvement” was amended by paragraph 30 of Schedule 5 to the Housing and Planning Act 1986.

(21) Section 188 was amended by paragraph 31 of Schedule 5 to the Housing and Planning Act 1986, paragraph 106 of Schedule 17 to the Housing Act 1988 and paragraph 25 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 and partly repealed by Schedule 22 to the 1993 Act.

(22) Paragraph 7A was inserted by paragraph 40 of Schedule 5 to the Housing and Planning Act 1986.

(23) Schedule 9A was inserted by section 8(2) and Schedule 2 to the Housing and Planning Act 1986.

“(3) Where by such a notice any members of the qualifying person’s family are validly required to share the right to buy with him, the right to buy the qualifying dwelling-house belongs to the qualifying person and those members jointly and they shall be treated as joint tenants for the purposes, in relation to that qualifying dwelling-house, of the right to buy.”

7. In section 125(5)(24) (landlord’s notice of purchase price and other matters)—

- (a) at the end of paragraph (c) insert “and”; and
- (b) omit paragraphs (e) and (f).

8. In section 125A(2)(b)(25) (estimates and information about service charges), omit the words from “and section 450A” to the end of the subsection.

9. In section 125D(1)(26) (qualifying person’s notice of intention) for the words after “in subsection (2)” substitute “serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim.”.

10. In section 127 (value of qualifying dwelling-house)—

- (a) in subsection (3)(a) omit “(but subject to sub-paragraph (3) of that paragraph)”; and
- (b) for subsection (4) substitute—

“(4) The persons referred to in subsection (1)(b) are—

- (a) a qualifying person or, where the qualifying person is a qualifying successor, the person who was the qualifying person before him;
- (b) where the qualifying person is the former secure tenant, any person who, under the same tenancy, was a secure tenant before him; and
- (c) where the qualifying person is the former secure tenant, any member of his family who, immediately before the grant of the secure tenancy, was the secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the qualifying person is the former secure tenant whose tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.”.

11. In section 131 (limits on amount of discount)—

- (a) for subsection (1)(27) substitute—

“(1) Unless the landlord otherwise agrees—

- (a) the discount shall not reduce the price below the amount which, in accordance with Schedule 5A, is to be taken as representing the costs incurred by the landlord in respect of the qualifying dwelling-house and is to be treated as relevant for the purposes of this section;
- (b) if the price before discount is below that amount there shall be no discount.”;

- (b) omit subsection (1A)(28); and

- (c) in subsection (3) omit “or determination”.

12. In section 136 (change of qualifying person after notice claiming right to buy)—

- (a) for subsection (1) substitute—

---

(24) Subsection (5) was substituted by section 104 of the Leasehold Reform, Housing and Urban Development Act 1993.

(25) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.

(26) Section 125D was inserted by section 105 of the Leasehold Reform, Housing and Urban Development Act 1993.

(27) Section 131(1) was amended by section 122(2) of the Housing Act 1988.

(28) Section 131(1A) was inserted by section 122(3) of the Housing Act 1988.

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

- “(1) Where, after a qualifying person has given a notice claiming the right to buy, a qualifying successor becomes the qualifying person in relation to the qualifying dwelling-house, the qualifying successor shall be in the same position as if the notice had been given by him and he had been the qualifying person at the time it was given.”;
- (b) in subsection (2)(29) for “former tenant” substitute “former qualifying person”; and
- (c) in subsection (6) for “new tenant” substitute “new qualifying person”.
- 13.** In section 137(1)(30) (change of landlord after claiming right to buy)—
- (a) after “Where” insert “, other than in a case to which section 171D(1)(a) or section 171E(2) (a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),”; and
- (b) for the word “body” in each place in which that word occurs substitute “person”.
- 14.** In section 139(2) (terms and effect of conveyance or grant) for the words before the semi-colon substitute—
- “The tenancy held by the qualifying person comes to an end on the grant to him of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part”.
- 15.** For section 140(3)(31) (landlord’s first notice to complete) substitute—
- “(3) A notice under this section shall not be served earlier than 12 months after the service of the landlord’s notice under section 125 (notice of purchase price and other matters).”.
- 16.** Omit sections 143 to 153(32) (right to acquire on rent to mortgage terms).
- 17.** In section 153A(1)(e) and (3)(b)(33) (qualifying person’s notices of delay) omit “or his right to acquire on rent to mortgage terms”.
- 18.** In section 153B (payments of rent attributable to purchase price etc.)—
- (a) in subsection (1)(b) omit “or, as the case may be, section 150”;
- (b) in subsection (1)(d)(34) omit “or, as the case may be, the notice claiming to exercise the right to acquire on rent to mortgage terms”; and
- (c) in subsection (3)(35) omit “or, as the case may be, the tenant’s initial payment”.
- 19.** In section 154 (registration of title), in subsection (1)(36) omit “or” at the end of paragraph (a) and omit paragraph (b).
- 20.** In section 155 (repayment of discount on early disposal)—
- (a) in subsection (1)—

---

(29) Section 136(2) was substituted by section 105(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(30) Section 137(1) was amended by paragraph 4 of Schedule 5 to the Housing and Planning Act 1986 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(31) Section 140(3) was substituted by paragraph 12 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(32) Sections 143 to 151 were substituted by sections 108 to 116 of the Leasehold Reform, Housing and Urban Development Act 1993; sections 151A and 151B were inserted by sections 117 and 118 of the 1993 Act; sections 152 and 153 were amended by section 119 of the 1993 Act.

(33) Section 153A was inserted by section 124 of the Housing Act 1988; subsections (1)(e) and (3)(b) were amended by paragraph 13 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993; subsection (1) was partly repealed by Schedule 22 to the 1993 Act.

(34) Section 153B was inserted by section 124 of the Housing Act 1988; section 153B(1)(d) was amended by paragraph 14 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993; subsection (1) was partly repealed by Schedule 22 to the 1993 Act.

(35) Section 153B(3) was amended by paragraph 14(3) of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(36) Section 154(1) was amended by section 2(3) of the Land Registration Act 1986 (c. 26).

- (i) for the words from “shall contain” to “no discount”) substitute “may, at the discretion of the landlord, contain (unless there is no discount)”;
    - (ii) add at the end of the subsection “but not one the effect of which would be more onerous”;
  - (b) in subsection (2)(37) omit “In the case of a conveyance or grant in pursuance of the right to buy”;
  - (c) omit subsection (3)(38); and
  - (d) in subsection (3A)(39) omit “and” at the end of paragraph (a) and omit paragraph (b).
- 21.** In section 156 (liability to repay is a charge on the premises)—
- (a) in subsections (1) and (3A)(40) for “required by” substitute “imposed by virtue of”;
  - (b) for subsection (2)(41) substitute—
    - “(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the qualifying person by an approved lending institution for the purpose of enabling him to exercise the right to buy.”;
  - (c) in subsection (2A)(a)(42) omit “paragraph (a) or (b) of”;
  - (d) in subsection (4A)(43) omit paragraph (a).
- 22.** In section 157 (restriction on disposal of qualifying dwelling-houses in National Parks etc.)—
- (a) in subsection (1) omit “a local authority, the Development Board for Rural Wales or”;
  - (b) in subsection (4)(44) omit “the Secretary of State or, where the landlord is a housing association,” and omit the comma after “Corporation”;
  - (c) in subsection (5)(45) omit “the Secretary of State or” and the words “he, or as the case may be,” and the comma after “the Corporation”.
- 23.** In section 158 (consideration for reconveyance or surrender under s. 157)—
- (a) in subsection (1) for “tenant” substitute “a qualifying person (or his successor in title or a person deriving title under him or his successor)”;
  - (b) in subsection (2)(46) —
    - (i) in paragraph (a) for “the covenant required by” substitute “a covenant imposed by virtue of”;
    - (ii) omit “and” at the end of paragraph (a) and omit paragraphs (aa) and (b).
- 24.** In section 162(a) (exempted disposals which end liability under covenants) for “the covenant required by” substitute “a covenant imposed by virtue of”.
- 25.** Omit sections 164 to 170 (various powers of Secretary of State).
- 26.** Omit section 171 (power to extend right to buy, etc.).

---

(37) Section 155(2) was amended by section 2(3) of the Housing and Planning Act 1986.

(38) Section 155(3) was substituted by section 120(1) of the Leasehold Reform, Housing and Urban Development Act 1993.

(39) Section 155(3A) was inserted by paragraph 41 of Schedule 17 to the Housing Act 1988 and amended by section 120(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(40) Section 156(3A) was added by paragraph 1 of Schedule 5 to the Housing and Planning Act 1986.

(41) Section 156(2) was substituted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(42) Section 156(2A) was inserted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(43) Subsection (4A) was inserted by section 120(4) of the Leasehold Reform, Housing and Urban Development Act 1993.

(44) Section 157(4) was amended by paragraph 106 of Schedule 17 to the Housing Act 1988.

(45) Section 157(5) was amended by paragraph 106 of Schedule 17 to the Housing Act 1988.

(46) Section 158(2)(aa) was inserted by paragraph 15 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

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

27. In section 171A(2)(47) (cases in which right to buy is preserved), omit “the following provisions of”.

28. In section 171B(5)(b)(48) (extent of preserved right: qualifying persons and qualifying dwelling-houses), for “became the statutory tenant or tenant as mentioned in subsection (4)(a) or (b)” substitute “acquired the assured tenancy, became the assignee of the assured tenancy or became the tenant, as mentioned in subsection (4)(a), (aa), or (b)”.

29. Omit section 171C(49) (modifications to Part V in relation to preserved right to buy).

30. Omit section 173 (exclusion of shared ownership leases granted under Part V).

31. In section 174(50) (leases granted under Part V to be treated as long leases at a low rent) omit “and” at the end of paragraph (a) and omit paragraph (b).

32. In section 176 (notices) omit subsections (1), (2) and (5).

33. Omit section 177(51) (errors and omissions in notices).

34. For section 178(52) (costs) substitute—

“178. An agreement between the landlord and qualifying person claiming to exercise the right to buy is void in so far as it purports to oblige the qualifying person to bear any part of the costs incurred by the landlord in connection with the qualifying person’s exercise of that right”.

35. In section 179 (provisions restricting right to buy, etc. of no effect)—

(a) for subsection (1)(a)(53) substitute—

“(a) the grant of a lease in pursuance of the preserved right to buy, or”; and

(b) omit subsection (2).

36. In section 180(54) (statutory declarations) for the words from the beginning of the section to “thinks fit” substitute “A landlord may if he thinks fit”.

37. In section 181(1)(b)(55) (jurisdiction of county court) omit “or under a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms”.

38. Omit section 182(56) (power to repeal or amend local Acts).

39. In section 184(2)(a) and (3)(57) (land let with or used for purposes of dwelling-house) omit “or the right to acquire on rent to mortgage terms”.

(47) Section 171A was inserted by section 8 of the Housing and Planning Act 1986.

(48) Section 171B was inserted by section 8 of the Housing and Planning Act 1986 and was amended by section 127(1) of the Housing Act 1988.

(49) Section 171C was inserted by section 8 of the Housing and Planning Act 1986; was amended by paragraph 19 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(50) Section 174(b) was amended by paragraph 19 of the Schedule to S.I. 1990/434.

(51) Section 177 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988; amended by paragraph 20 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(52) Section 178 was substituted by paragraph 21 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(53) Section 179(1)(a) was amended by paragraph 22 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(54) Section 180 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(55) Section 181(1) was amended by paragraph 23 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(56) Section 182 was partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(57) Section 184(2)(a) and (3) were amended by paragraph 24 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.



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

- 40.** In section 188(**58**) (the index of defined expressions: Part V)—
- (a) omit from the first column of the Table the following expressions together with the corresponding entries in the second column—
- “final payment”
  - “housing trust”
  - “initial payment and interim payment”
  - “landlord’s share”
  - “minimum initial payment and maximum initial payment”
  - “right to acquire on rent to mortgage terms”;
- (b) at the appropriate places in the Table insert—

---

“assured tenancy	section 622”
“qualifying successor	section 171B(4)”.

---

**41.** In Schedule 5 (exceptions to the right to buy) omit paragraphs 1 (charities) and 3(**59**) (certain housing associations).

**42.** After Schedule 5 insert as Schedule 5A the Schedule set out in Part II of this Schedule.

**43.** In Schedule 6 (conveyance of freehold and grant of lease in pursuance of right to buy)—

- (a) in Part I (common provisions)—
- (i) in paragraphs 2(2)(a) and (b), for “the secure tenancy” substitute “his tenancy”,
  - (ii) in paragraph 4, for “the secure tenancy” substitute “the qualifying person’s tenancy”,  
and
  - (iii) in paragraph 7, in the definition of “tenant’s incumbrance” in sub-paragraph (a) for “the secure tenancy” substitute “the qualifying person’s tenancy” and in sub-paragraph (b), for “the secure tenancy” substitute “that tenancy”;
- (b) in Part III (leases)—
- (i) in paragraph 11 omit “(but subject to sub-paragraph (3) of that paragraph)”,
  - (ii) in paragraph 12 omit sub-paragraph (3),
  - (iii) in paragraph 13 for “the secure tenancy” substitute “his tenancy”; and
  - (iv) omit paragraph 16E(**60**).

**44.** Omit Schedule 6A(**61**) (redemption of landlord’s share under rent to mortgage).

---

**(58)** Section 188 was amended by paragraph 31 of Schedule 5 to the Housing and Planning Act 1986; paragraph 106 of Schedule 17 to the Housing Act 1988; paragraph 25 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

**(59)** Paragraph 3 of Schedule 5 was amended by paragraph 66 of Schedule 17 and partly repealed by Schedule 18 to the Housing Act 1988.

**(60)** Paragraph 16E of Schedule 6 was inserted by section 116(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

**(61)** Schedule 6A was inserted by section 117(2) of and Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

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

## PART II

### SCHEDULE TO BE INSERTED AFTER SCHEDULE 5

“SCHEDULE 5A

Section 131.

#### LIMITS ON AMOUNT OF DISCOUNTRELEVANT COSTS

##### *Introductory*

1. In this Schedule—

“cost floor” means the amount mentioned in section 131(1)(a) (limits on amount of discount), and

“relevant costs” means costs to be taken into account for the purposes of section 131(1)(a).

##### *Relevant costs and relevant works*

2. Costs shall be treated as relevant costs if, and only to the extent that, they are not administrative costs or interest.

3. Works of improvement to a qualifying dwelling-house are relevant works but works of repair or maintenance or works to deal with any defect affecting the qualifying dwelling-house are not relevant works.

4. Costs incurred on any relevant works shall not be treated as relevant costs if payment for them is made on or after the date of service of the qualifying person’s notice under section 122 (notice claiming to exercise right to buy) unless—

- (a) the landlord has before that date entered into a written contract for the carrying out of works; or
- (b) the qualifying person has agreed in writing to the carrying out of works and either the works have been carried out not later than the date of service of the landlord’s notice under section 125 (notice of purchase price etc.) or the works will be carried out under the proposed terms of the conveyance or grant.

##### *Ascertainment of cost floor*

5.—(1) The cost floor is an amount equal to the aggregate of the costs which under sub-paragraph (2) may be treated as relevant costs.

(2) The costs which may be treated as relevant costs are the costs incurred by the landlord in respect of—

- (a) the acquisition of the qualifying dwelling-house, or
- (b) the construction of the qualifying dwelling-house (including development works and the acquisition of land), and
- (c) relevant works to the qualifying dwelling-house.

(3) Where the landlord has previously disposed of the qualifying dwelling-house and has subsequently re-acquired it in circumstances in which discount was recovered in whole or part, only the costs of re-acquisition net of any discount recovered shall be taken into account for the purposes of sub-paragraph (2)(a).

### *Estimates*

6. An estimate may be made for the purposes of arriving at the cost floor for a qualifying dwelling-house where the amount of any relevant costs or payments for them cannot readily be ascertained.

### *Companies*

7.—(1) In a case where a landlord is a company, references to the landlord in paragraphs 4(a) and 5(2) and (3) include references to a connected company.

(2) For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.**(62)**

## SCHEDULE 2

Regulation 2(2)

### PART V AS IT APPLIES IN CASES WHERE THE RIGHT TO BUY IS PRESERVED

#### *The Right to Buy*

#### **The right to buy**

118.—(1) A qualifying person has the right to buy, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—

- (a) if the qualifying dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the qualifying dwelling-house;
- (b) if the landlord does not own the freehold or if the qualifying dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the qualifying dwelling-house.

#### **Qualifying period for right to buy**

119.—(1) The right to buy does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.

(2) Where the tenancy held by the qualifying person is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

#### **Exceptions to the right to buy**

120. The right to buy does not arise in the cases specified in Schedule 5 (exceptions to the right to buy).

#### **Circumstances in which the right to buy cannot be exercised**

121.—(1) The right to buy cannot be exercised if the qualifying person is obliged to give up possession of the qualifying dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.

---

**(62)** 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

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

(2) The right to buy cannot be exercised if the person, or one of the persons, to whom the right to buy belongs—

- (a) has a bankruptcy petition pending against him,
- (b) is an undischarged bankrupt, or
- (c) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

#### *Claim to exercise right to buy*

#### **Qualifying person’s notice claiming to exercise right to buy**

**122.**—(1) A qualifying person claims to exercise the right to buy by written notice to that effect served on the landlord.

(2) In this Part “the relevant time”, in relation to an exercise of the right to buy, means the date on which that notice is served.

(3) The notice may be withdrawn at any time by notice in writing served on the landlord.

(4) Where the qualifying dwelling-house is occupied by two or more qualifying persons as joint tenants the right to buy may be exercised by such one or more of them as may be agreed between them.

#### **Claim to share right to buy with members of family**

**123.**—(1) A qualifying person may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the qualifying dwelling-house as their only or principal home should share the right to buy with him.

(2) He may validly do so in the case of any such member only if—

- (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
- (b) the landlord consents.

(3) Where by such a notice any members of the qualifying person’s family are validly required to share the right to buy with him, the right to buy the qualifying dwelling-house belongs to the qualifying person and those members jointly and they shall be treated as joint tenants for the purposes, in relation to that qualifying dwelling-house, of the right to buy.

#### **Landlord’s notice admitting or denying right to buy**

**124.**—(1) Where a notice under section 122 (notice claiming to exercise right to buy) has been served by the qualifying person the landlord shall, unless the notice is withdrawn, serve on the qualifying person within the period specified in subsection (2) a written notice either—

- (a) admitting his right, or
- (b) denying it and stating the reasons why, in the opinion of the landlord, the qualifying person does not have the right to buy.

(2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to buy) is satisfied by a period or periods during which the landlord was the landlord on which the qualifying person’s notice under section 122 was served, and eight weeks in any other case.

### **Landlord's notice of purchase price and other matters**

**125.**—(1) Where a qualifying person has claimed to exercise the right to buy and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—

- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
- (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest),

serve on the qualifying person a notice complying with this section.

(2) The notice shall describe the qualifying dwelling-house, shall state the price at which, in the opinion of the landlord, the qualifying person is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—

- (a) the value at the relevant time,
- (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
- (c) the discount to which the qualifying person is entitled, stating the period to be taken into account under section 129 (discount) and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount) or section 131(1) or (2) (limits on amount of discount).

(3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.

(4) Where the notice states provisions which would enable the landlord to recover from the qualifying person—

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).

(4A) The notice shall contain a description of any structural defect known to the landlord affecting the qualifying dwelling-house or the building in which it is situated or any other building over which the qualifying person will have rights under the conveyance or lease.

(5) The notice shall also inform the qualifying person of—

- (a) the effect of sections 125D and 125E(1) and (4) (qualifying person's notice of intention, landlord's notice in default and effect of failure to comply),
- (b) his right under section 128 to have the value of the qualifying dwelling-house at the relevant time determined or re-determined by the district valuer,
- (c) the effect of section 136(2) (change of qualifying person after service of notice under section 125), and
- (d) the effect of sections 140 and 141(1), (2) and (4) (landlord's notices to complete and effect of failure to comply).

### **Estimates and information about service charges**

**125A.**—(1) A landlord's notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—

- (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and

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

- (b) the aggregate of those estimated amounts,  
and shall contain a statement of the reference period adopted for the purpose of the estimates.
- (2) A landlord's notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain—
  - (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of—  
paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—
  - (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of those estimated costs and contributions, and
  - (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the qualifying person.

#### **Estimates and information about improvement contributions**

- 125B.**—(1) A landlord's notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—
- (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
  - (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.
- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
- (a) the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and
  - (b) the aggregate amounts of those estimated costs and contributions.

#### **Reference period for purposes of ss. 125A and 125B**

- 125C.**—(1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—
- (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
  - (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.
- (2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.

### **Qualifying person's notice of intention**

**125D.**—(1) Where a notice under section 125 has been served on a qualifying person, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to buy or that he withdraws that claim.

(2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—

- (a) the service of the notice under section 125, and
- (b) where the qualifying person exercises his right to have the value of the qualifying dwelling-house determined or re-determined by the district valuer, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

### **Landlord's notice in default**

**125E.**—(1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the qualifying person a written notice—

- (a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and
- (b) informing him of the effect of this subsection and subsection (4).

(2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the qualifying person extend it (or further extend it).

(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the qualifying person to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the qualifying person does not comply with a notice under this section, the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).

### *Purchase price*

### **Purchase price**

**126.**—(1) The price payable for a qualifying dwelling-house on a conveyance or grant in pursuance of this Part is—

- (a) the amount which under section 127 is to be taken as its value at the relevant time, less
- (b) the discount to which the purchaser is entitled under this Part.

(2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

### **Value of qualifying dwelling-house**

**127.**—(1) The value of a qualifying dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—

- (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3),

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

- (b) disregarding any improvements made by any of the persons specified in subsection (4) and any failure by any of those persons to keep the qualifying dwelling-house in good internal repair, and
  - (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.
- (2) For a conveyance the assumptions are—
- (a) that the vendor was selling for an estate in fee simple with vacant possession,
  - (b) that neither the qualifying person nor a member of his family residing with him wanted to buy, and
  - (c) that the qualifying dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—
- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6,
  - (b) that neither the qualifying person nor a member of his family residing with him wanted to take the lease,
  - (c) that the ground rent would not exceed £10 per annum, and
  - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) The persons referred to in subsection (1)(b) are—
- (a) a qualifying person or, where the qualifying person is a qualifying successor, the person who was the qualifying person before him;
  - (b) where the qualifying person is the former secure tenant, any person who, under the same tenancy, was a secure tenant before him; and
  - (c) where the qualifying person is the former secure tenant, any member of his family who, immediately before the grant of the secure tenancy, was the secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the qualifying person is the former secure tenant whose tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

### **Determination of value by district valuer**

**128.**—(1) Any question arising under this Part as to the value of a qualifying dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.

(2) A qualifying person may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the qualifying person for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.

- (3) If such proceedings are begun after a previous determination under this section—
- (a) the qualifying person may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the qualifying dwelling-house at the relevant time to be re-determined, and



(b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value; and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the qualifying person a notice stating that the requirement is being or has been made.

(4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the qualifying person within four weeks from the service of the qualifying person's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).

(5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the qualifying person a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to buy).

## **Discount**

**129.**—(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

(2) The discount is, subject to any order under subsection (2A)—

- (a) in the case of a house, 32 per cent. plus one per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 60 per cent.;
- (b) in the case of a flat, 44 per cent. plus two per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 70 per cent.

(2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

- (a) the minimum percentage discount,
- (b) the percentage increase for each complete year of the qualifying period after the first two, or
- (c) the maximum percentage discount,

shall be such percentage, higher than that specified in subsection (2) as may be specified in the order.

(2B) An order—

- (a) may make different provision with respect to different cases or descriptions of case,
- (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
- (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(3) Where joint tenants exercise the right to buy, Schedule 4 shall be construed as if for the qualifying person there were substituted that one of the joint tenants whose substitution will produce the largest discount.

## **Reduction of discount where previous discount given**

**130.**—(1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.

(2) A "previous discount" means a discount given before the relevant time—

- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 or 7A of Schedule 4 (public sector landlords) or, in

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

such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or

- (aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or
  - (ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord's share), or
  - (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect.
- (3) A previous discount qualifies for the purposes of this section if it was given—
- (a) to the person or one of the persons exercising the right to buy, or
  - (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
  - (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);

and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.

- (4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—
- (a) by the receipt of a payment determined by reference to the discount, or
  - (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
  - (c) in any other way,

then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.

- (5) An order 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) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section “qualifying dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

### **Limits on amount of discount**

**131.**—(1) Unless the landlord otherwise agrees—

- (a) the discount shall not reduce the price below the amount which, in accordance with Schedule 5A, is to be taken as representing the costs incurred by the landlord in respect of the qualifying dwelling-house and is to be treated as relevant for the purposes of this section;
- (b) if the price before discount is below that amount there shall be no discount.

(2) The discount shall not in any case reduce the price by more than such sum as the Secretary of State may by order prescribe.

(3) An order under this section may make different provision for different cases or descriptions of case, including different provision for different areas.

(4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Change of qualifying person or landlord after service of notice claiming right to buy*

**Change of qualifying person after notice claiming right to buy**

**136.**—(1) Where, after a qualifying person has given a notice claiming the right to buy, a qualifying successor becomes the qualifying person in relation to the qualifying dwelling-house, the qualifying successor shall be in the same position as if the notice had been given by him and he had been the qualifying person at the time it was given.

(2) If a notice under section 125 (landlord’s notice of purchase price and other matters) has been served on the former qualifying person then, whether or not the former qualifying person has served a notice under subsection (1) of section 125D (qualifying person’s notice of intention), the new qualifying person shall serve a notice under that subsection within the period of twelve weeks beginning with whichever of the following is the later—

- (a) his becoming the new qualifying person, and
- (b) where the right to have the value of the qualifying dwelling-house determined or re-determined by the district valuer is or has been exercised by him or the former qualifying person, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

(6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to buy with members of family) to share the right to buy, unless he could have been validly so required had the notice claiming to exercise the right to buy been given by the new qualifying person.

(7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the qualifying person.

**Change of landlord after notice claiming right to buy**

**137.**—(1) Where, other than in a case to which section 171D(1)(a) or section 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies), the interest of the landlord in the qualifying dwelling-house passes from the landlord to another person after a qualifying person has given a notice claiming to exercise the right to buy, all parties shall, subject to subsection (2), be in the same position as if the other person had become the landlord before the notice was given and had been given that notice and any further notice given by the qualifying person to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
- (a) the interest of the donee in the qualifying dwelling-house after the disposal differs from that of the donor before the disposal, or
  - (b) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.

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

### *Completion of purchase in pursuance of right to buy*

#### **Duty of landlord to convey freehold or grant lease**

**138.**—(1) Where a qualifying person has claimed to exercise the right to buy and that right has been established, then, as soon as all matters relating to the grant have been agreed or determined, the landlord shall make to the qualifying person—

- (a) if the qualifying dwelling-house is a house and the landlord owns the freehold, a grant of the qualifying dwelling-house for an estate in fee simple absolute, or
- (b) if the landlord does not own the freehold or if the qualifying dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the qualifying dwelling-house,

in accordance with the following provisions of this Part.

(2) If the qualifying person has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

(3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

#### **Terms and effect of conveyance or grant**

**139.**—(1) A conveyance of the freehold executed in pursuance of the right to buy shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.

(2) The tenancy held by the qualifying person comes to an end on the grant to him of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part; and if there is a subtenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

#### **Landlord's first notice to complete**

**140.**—(1) The landlord may, subject to the provisions of this section, serve on the qualifying person at any time a written notice requiring him—

- (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
- (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,

and informing the qualifying person of the effect of this section and of section 141(1), (2) and (4) (landlord's second notice to complete).

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) A notice under this section shall not be served earlier than 12 months after the service of the landlord's notice under section 125 (notice of purchase price and other matters).

(4) A notice under this section shall not be served if—

- (a) a requirement for the determination or re-determination of the value of the qualifying dwelling-house by the district valuer has not been complied with,
- (b) proceedings for the determination of any other relevant matter have not been disposed of, or

- (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the qualifying person has not been agreed in writing or determined.
- (5) In this section “relevant matters” means matters relating to the grant.

### **Landlord’s second notice to complete**

**141.**—(1) If the qualifying person does not comply with a notice under section 140 (landlord’s first notice to complete), the landlord may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice, and
- (b) informing him of the effect of this section in the event of his failing to comply.

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the qualifying person extend it (or further extend it).

(4) If the qualifying person does not comply with a notice under this section the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).

(5) If a notice under this section has been served on the qualifying person and by virtue of section 138(2) (failure of qualifying person to pay rent, etc.) the landlord is not bound to complete, the qualifying person shall be deemed not to comply with the notice.

### *Qualifying person’s sanction for landlord’s delay*

### **Qualifying person’s notices of delay**

**153A.**—(1) Where a qualifying person has claimed to exercise the right to buy, he may serve on his landlord a notice (in this section referred to as an “initial notice of delay”) in any of the following cases, namely,—

- (a) where the landlord has failed to serve a notice under section 124 within the period appropriate under subsection (2) of that section;
- (b) where the qualifying person’s right to buy has been established and the landlord has failed to serve a notice under section 125 within the period appropriate under subsection (1) of that section;
- (e) where the qualifying person considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy;

and where an initial notice of delay specifies either of the cases in paragraphs (a) and (b), any reference in this section or section 153B to the default date is a reference to the end of the period referred to in the paragraph in question or, if it is later, the day appointed for the coming into force of section 124 of the Housing Act 1988.

(2) An initial notice of delay—

- (a) shall specify the most recent action of which the qualifying person is aware which has been taken by the landlord pursuant to this Part of this Act; and
- (b) shall specify a period (in this section referred to as “the response period”), not being less than one month, beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (3) will have the effect of cancelling the initial notice of delay.

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

(3) Within the response period specified in an initial notice of delay or at any time thereafter, the landlord may serve on the qualifying person a counter notice in either of the following circumstances—

- (a) if the initial notice specifies either of the cases in paragraphs (a) and (b) of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, or section 125, as the case may be; or
- (b) if the initial notice specifies the case in subsection (1)(e) and there is no action under this Part which, at the beginning of the response period, it was for the landlord to take in order to allow the qualifying person expeditiously to exercise his right to buy and which remains to be taken at the time of service of the counter notice.

(4) A counter notice under subsection (3) shall specify the circumstances by virtue of which it is served.

(5) At any time when—

- (a) the response period specified in an initial notice of delay has expired; and
- (b) the landlord has not served a counter notice under subsection (3);

the qualifying person may serve on the landlord a notice (in this section and section 153B referred to as an “operative notice of delay”) which shall state that section 153B will apply to payments of rent made by the qualifying person on or after the default date or, if the initial notice of delay specified the case in subsection (1)(e), the date of the service of the notice.

(6) If, after a qualifying person has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the qualifying person has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the qualifying person may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.

### **Payments of rent attributable to purchase price etc.**

**153B.**—(1) Where a qualifying person has served on his landlord an operative notice of delay, this section applies to any payment of rent which is made on or after the default date or, as the case may be, the date of the service of the notice and before the occurrence of any of the following events (and, if more than one event occurs, before the earliest to occur)—

- (a) the service by the landlord of a counter notice under section 153A(3);
- (b) the date on which the landlord makes to the qualifying person the grant required by section 138;
- (d) the date on which the qualifying person withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy; and
- (e) the date on which the qualifying person ceases to be entitled to exercise the right to buy.

(2) Except where this section ceases to apply on a date determined under paragraph (d) or (e) of subsection (1), so much of any payment of rent to which this section applies as does not consist of—

- (a) a sum due on account of rates or council tax, or
- (b) a service charge (as defined in section 621A),

shall be treated not only as a payment of rent but also as a payment on account by the qualifying person which is to be taken into account in accordance with subsection (3).

(3) In a case where subsection (2) applies, the amount which, apart from this section, would be the purchase price shall be reduced by an amount equal to the aggregate of—

- (a) the total of any payments on account treated as having been paid by the qualifying person by virtue of subsection (2); and

- (b) if those payments on account are derived from payments of rent referable to a period of more than twelve months, a sum equal to the appropriate percentage of the total referred to in paragraph (a).

(4) In subsection (3)(b) “the appropriate percentage” means 50 per cent. or such other percentage as may be prescribed.

### *Registration of title*

#### **Registration of title**

**154.**—(1) Where the landlord’s title to the qualifying dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to—

(a) the conveyance of the freehold or the grant of a lease in pursuance of this Part, whether or not the qualifying dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of more than 21 years.

(2) Where the landlord’s title to the qualifying dwelling-house is not registered, the landlord shall give the qualifying person a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.

(3) Where the landlord’s interest in the qualifying dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—

- (a) where it is registered, the title number;
- (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord’s lease.

(4) A certificate under subsection (2) shall be—

- (a) in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.

(6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this Part notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.

(7) Section 70(1)(k) of the Land Registration Act 1925 (overriding interests) shall not apply to a lease granted in pursuance of this Part.

### *Provisions affecting future disposals*

#### **Repayment of discount on early disposal**

**155.**—(1) A conveyance of the freehold or grant of a lease in pursuance of this Part may, at the discretion of the landlord, contain (unless there is no discount) a covenant binding on the qualifying person and his successors in title to the following effect, but not one the effect of which would be more onerous.

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

(2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the qualifying person was entitled, reduced by one third for each complete year which has elapsed after the conveyance or grant and before the disposal.

(3A) Where a qualifying person has served on his landlord an operative notice of delay, as defined in section 153A—

- (a) the three years referred to in subsection (2) shall begin from a date which precedes the date of the conveyance of the freehold or grant of the lease by a period equal to the time (or, if there is more than one such notice, the aggregate of the times) during which, by virtue of section 153B, any payment of rent falls to be taken into account in accordance with subsection (3) of that section.

### **Liability to repay is a charge on the premises**

**156.**—(1) The liability that may arise under the covenant imposed by virtue of section 155 is a charge on the qualifying dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the qualifying person by an approved lending institution for the purpose of enabling him to exercise the right to buy.

(2A) The following, namely—

- (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
- (b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

- (a) is made to the qualifying person by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of the advance or further advance is an approved purpose.

(3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

(3A) The covenant imposed by virtue of section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the qualifying person, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

(4) The approved lending institutions for the purposes of this section are—

- the Corporation,
- a building society,



- a bank,
- a trustee savings bank,
- an insurance company,
- a friendly society,

and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.

(4A) The approved purposes for the purpose of this section are—

- (b) to enable the qualifying person to defray, or to defray on his behalf, any of the following—
  - (i) the cost of any works to the qualifying dwelling-house,
  - (ii) any service charges payable in respect of the qualifying dwelling-house for works, whether or not to the qualifying dwelling-house, or
  - (iii) any service charge or other amount payable in respect of the qualifying dwelling-house for insurance, whether or not to the qualifying dwelling-house, and
- (c) to enable the qualifying person to discharge, or to discharge on his behalf, any of the following—
  - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
  - (ii) any arrears of interest on such an advance or further advance, and
  - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

(5) An order under subsection (4)—

- (a) shall be made by statutory instrument, and
- (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

(6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.

### **Restriction on disposal of qualifying dwelling-houses in National Parks, etc.**

**157.**—(1) Where in pursuance of this Part a conveyance or grant is executed by a housing association (“the landlord”) of a qualifying dwelling-house situated in—

- (a) a National Park,
- (b) an area designated under section 87 of the National Parks and Access to the Countryside Act 1949 as an area of outstanding natural beauty, or
- (c) an area designated by order of the Secretary of State as a rural area,

the conveyance or grant may contain a covenant limiting the freedom of the qualifying person (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the qualifying dwelling-house in the manner specified below.

(2) The limitation is, subject to subsection (4), that until such time (if any) as may be notified in writing by the landlord to the qualifying person or a successor in title of his,

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

- (a) there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3), and—
  - (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the qualifying dwelling-house.
- (3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent or, in the case of a disposal by way of tenancy or licence, preceding the disposal—
- (a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or
  - (b) had his only or principal home in such a region;
- or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.
- (4) If the Corporation consents, the limitation specified in subsection (2) may be replaced by the following limitation, that is to say, that until the end of the period of ten years beginning with the conveyance or grant there will be no relevant disposal which is not an exempted disposal, unless in relation to that or a previous such disposal—
- (a) the qualifying person (or his successor in title or the person deriving title under him or his successor) has offered to reconvey the qualifying dwelling-house, or as the case may be surrender the lease, to the landlord for such consideration as is mentioned in section 158, and
  - (b) the landlord has refused the offer or has failed to accept it within one month after it was made.
- (5) The consent of the Corporation under subsection (4) may be given subject to such conditions as the Corporation thinks fit.
- (6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—
- (a) the landlord were possessed of land adjacent to the house concerned; and
  - (b) the covenant were expressed to be made for the benefit of such adjacent land.
- (6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.
- (7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter the appropriate restriction on the register of title as if application thereof had been made under section 58 of the Land Registration Act 1925.
- (8) An order 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) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **Consideration for reconveyance or surrender under s. 157.**

**158.**—(1) The consideration for the offer by a qualifying person (or his successor in title or a person deriving title under him or his successor) referred to in section 157(4)(a), to reconvey or surrender his interest to the landlord shall be such amount as may be agreed between the parties or determined by the district valuer as being the amount which is to be taken as the value of the qualifying dwelling-house at the time the offer is made.

(2) That value shall be taken to be the price which, at that time, the interest to be reconveyed or surrendered would realise if sold on the open market by a willing vendor, on the assumption that any liability under—

(a) a covenant imposed by virtue of section 155 (repayment of discount on early disposal), would be discharged by the vendor.

(3) If the landlord accepts the offer, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.

(4) Where there is a charge on the qualifying dwelling-house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer to reconvey or surrender.

### **Relevant disposals**

**159.**—(1) A disposal, whether of the whole or part of the qualifying dwelling-house, is a relevant disposal for the purposes of this Part if it is—

- (a) a further conveyance of the freehold or an assignment of the lease, or
- (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.

(2) For the purposes of subsection (1)(b) it shall be assumed—

- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
- (b) that any option to terminate a lease or sub-lease is not exercised.

### **Exempted disposals**

**160.**—(1) A disposal is an exempted disposal for the purposes of this Part if—

- (a) it is a disposal of the whole of the qualifying dwelling-house and a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
- (b) it is a vesting of the whole of the qualifying dwelling-house in a person taking under a will or on an intestacy;
- (c) it is a disposal of the whole of the qualifying dwelling-house in pursuance of an order made under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the Inheritance (Provision for Family and Dependents) Act 1975 (orders as to financial provision to be made from estate);
- (d) it is a compulsory disposal (as defined in section 161); or

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

- (e) it is a disposal of property consisting of land included in the qualifying dwelling-house by virtue of section 184 (land let with or used for the purposes of the qualifying dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—
- (a) he is the person, or one of the persons, by whom the disposal is made,
  - (b) he is the spouse or a former spouse of that person, or one of those persons, or
  - (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.

### **Meaning of “compulsory disposal”**

**161.** In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

### **Exempted disposals which end liability under covenants**

**162.** Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1) (d) or (e) (compulsory disposals or disposals of land let with or used for purposes of qualifying dwelling-house)—

- (a) a covenant imposed by virtue of section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of, and
- (b) any such covenant as is mentioned in section 157 (restriction on disposal of qualifying dwelling-houses in National Parks, etc.) ceases to apply in relation to the property disposed of.

### **Treatment of options**

**163.—**(1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.

(2) For the purposes of section 157(2) (requirement of consent to disposal of qualifying dwelling-house in National Park, etc.) a consent to such a grant shall be treated as a consent to a disposal in pursuance of the option.

### *Preservation of right to buy on disposal to private sector landlord*

### **Cases in which right to buy is preserved**

**171A.—**(1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).

(2) In this Part—

- (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply,

- (b) “qualifying disposal” means a disposal in relation to which this section applies, and
  - (c) the “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).
- (3) This section does not apply—
- (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
  - (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.
- (4) Orders under subsection (3)(b)—
- (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Extent of preserved right: qualifying persons and dwelling-houses**

**171B.**—(1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home subject to the following provisions of this Part.

(2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.

- (3) The following are the persons to whom this section applies—
- (a) the former secure tenant, or in the case of a joint tenancy, each of them;
  - (b) a qualifying successor as defined in subsection (4); and
  - (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.
- (4) The following are qualifying successors for this purpose—
- (a) where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was tenant under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant’s family who acquired that assured tenancy under the will or intestacy of the former secure tenant;
  - (aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant’s family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy;
  - (b) a person who becomes the tenant of a dwelling-house in pursuance of—
    - (i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or
    - (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 transferring the tenancy,in place of a person who had the preserved right to buy in relation to that dwelling-house.
- (5) The relevant dwelling-house is in the first instance—
- (a) in relation to a person within paragraph (a) of subsection (3), the dwelling-house which was the subject of the qualifying disposal;

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

- (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he acquired the assured tenancy, became the assignee of the assured tenancy or became the tenant, as mentioned in subsection (4)(a),(aa) or (b);
- (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.

(6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house, or where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For the purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

#### **Subsequent dealings: disposal of landlord’s interest in qualifying dwelling-house**

**171D.**—(1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—

- (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),

in which case the right to buy ceases to be preserved.

(2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.

(3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.

(4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.

#### **Subsequent dealings: termination of landlord’s interest in qualifying dwelling-house**

**171E.**—(1) On the termination of the landlord’s interest in the qualifying dwelling-house—

- (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
- (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),

the right to buy ceases to be preserved.

(2) The termination of the landlord’s interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord’s interest together with a superior interest, does not affect the preserved right to buy, unless—

- (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
- (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),

in which case the right to buy ceases to be preserved.

(3) Where the termination of the landlord's interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.

#### **Subsequent dealings: transfer of qualifying person to alternative accommodation**

**171F.** The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 or on Ground 9 in Schedule 2 to the Housing Act 1988 (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—
  - (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
  - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or
- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).

#### **Land registration and related matters**

**171G.** Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.

#### **Disposal after notice claiming to exercise right to buy, etc.**

**171H.—**(1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy and before the completion of the exercise of that right the dwelling-house is the subject of—

- (a) a qualifying disposal, or
- (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the donee had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
  - (a) the interest of the donee in the dwelling-house after the disposal differs from that of the donor before the disposal, or
  - (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.

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

*Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part*

**Exclusion of leases where landlord is housing association and freeholder is a charity**

**172.**—(1) Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

**Leases granted under this Part to be treated as long leases at a low rent**

**174.** For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds)—

- (a) a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less.

**Determination of price payable**

**175.**—(1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the qualifying dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that the circumstances specified in that section do not apply.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a qualifying dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

(5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

*Supplementary provisions*

**Notices**

**176.**—(3) A notice under this Part may be served by sending it by post.

(4) Where the landlord is a housing association, a notice to be served by the qualifying person on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the association or the office of the association with which the qualifying person usually deals.



## **Costs**

**178.** An agreement between the landlord and qualifying person claiming to exercise the right to buy is void in so far as it purports to oblige the qualifying person to bear any part of the costs incurred by the landlord in connection with the qualifying person's exercise of that right.

## **Provisions restricting right to buy, etc. of no effect**

**179.—**(1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—

- (a) the grant of a lease in pursuance of the preserved right to buy, or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted,

or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.

## **Statutory declarations**

**180.** A landlord may if he thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

## **Jurisdiction of county court**

**181.—**(1) A county court has jurisdiction—

- (a) to entertain any proceedings brought under this Part, and
- (b) to determine any question arising under this Part,

but subject to sections 128 and 158 (which provide for matters of valuation to be determined by the district valuer).

(2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.

(4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—

- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
- (b) for the conduct of proceedings in private.

(5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **Meaning of “house”, “flat” and “dwelling-house”**

**183.—**(1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.

(2) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—

- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;

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

- (b) where a building is divided vertically, the units into which it is divided may be houses;
  - (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.
- (3) A dwelling-house which is not a house is a flat.

#### **Land let with or used for purposes of dwelling-house**

**184.**—(1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.

(2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—

- (a) the qualifying person, by written notice served on the landlord at any time before he exercises the right to buy requires the land to be included in the dwelling-house, and
- (b) it is reasonable in all the circumstances for the land to be so included.

(3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the qualifying person exercises the right to buy.

(4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord's notice of purchase price, etc.), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

#### **Meaning of “secure tenancy” and “secure tenant”**

**185.**—(1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 had then been in force or to a person who would then have been a secure tenant.

(2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—

- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
- (b) a housing association shall be deemed to have been registered if it is or was so registered at any later time.

#### **Members of a person's family**

**186.**—(1) A person is a member of another's family within the meaning of this Part if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(2) For the purposes of subsection (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his child, and
- (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

## Minor definitions

### 187. In this Part—

“improvement” means in relation to a dwelling-house any alteration in, or addition to, the dwelling-house and includes—

- (a) any addition to, or alteration in, landlord’s fixtures and fittings and any addition or alteration connected with the provision of services to the dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration,

and shall be similarly construed in relation to any other building or land;

“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligations to repair, reinstate, etc.);

“long tenancy” means—

- (a) a long tenancy within the meaning of Part IV,
- (b) or
- (c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;

and “long lease” shall be construed accordingly.

## Index of defined expressions: Part V

188. The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

assured tenancy	section 622
bank	section 622
building society	section 622
cemetery	section 622
charity	section 622
compulsory disposal	section 161
co-operative housing association	section 5(2)
the Corporation	section 6A
disposal and instrument effecting disposal (in Schedule 9A)	paragraph 10 of that Schedule
district valuer	section 622
dwelling-house	sections 183 and 184
exempted disposal	section 160
family (member of)	section 186
flat	section 183

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

friendly society	section 622
former landlord and former secure tenant (in relation to a qualifying disposal)	section 171A(2)(c)
house	section 183
housing association	section 5(1)
improvement	section 187
improvement contribution	section 187
incumbrances	paragraph 7 of Schedule 6
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed	section 614
preserved right to buy	section 171A(2)(a)
public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
qualifying disposal (in relation to the preserved right to buy)	section 171A(2)(b)
qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)	section 171B(1)
qualifying successor	section 171B(4)
reference period (for purposes of s. 125A or 125B)	section 125C
registered (in relation to a housing association)	section 5(4)
regular armed forces of the Crown	section 622
relevant disposal	section 159 and see section 452(3)
relevant time	section 122(2)
right to buy	section 118(1)
secure tenancy and secure tenant	sections 79 and 185
service charge	section 621A
tenant's incumbrance	paragraph 7 of Schedule 6
trustee savings bank	section 622
urban development corporation	section 4(d)

---

SCHEDULE 4

Sections 119 and 129.

QUALIFYING PERIOD FOR RIGHT TO BUY AND DISCOUNT

*Introductory*

1. The period to be taken into account—
  - (a) for the purposes of section 119 (qualification for right to buy), and
  - (b) for the purposes of section 129 (discount),

is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule.

*Periods occupying accommodation subject to public sector tenancy*

2. A period qualifies under this paragraph if it is a period during which, before the relevant time—
  - (a) the qualifying person, or
  - (b) his spouse (if they are living together at the relevant time), or
  - (c) a deceased spouse of his (if they were living together at the time of the death),

was a public sector tenant or was the spouse of a public sector tenant and occupied as his only or principal home the dwelling-house of which the spouse was such a tenant.

3. For the purposes of paragraph 2 a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as having been the public sector tenant under that tenancy.

4.—(1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (the “new tenant”) became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).

(2) A period during which the new tenant, since reaching the age of 16, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—

- (a) the period at the end of which he became the public sector tenant, or
- (b) an earlier period ending two years or less before the period mentioned in paragraph (a) or before another period within this paragraph,

shall be treated for the purposes of paragraph 2 as a period during which he was a public sector tenant.

(3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under section 186(2) (members of a person’s family: relationships other than those of the whole blood).

*Periods occupying forces accommodation*

5. A period qualifies under this paragraph if it is a period during which, before the relevant time—
  - (a) the qualifying person, or
  - (b) his spouse (if they are living together at the relevant time), or
  - (c) a deceased spouse of his (if they were living together at the time of the death),

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

occupied accommodation provided for him as a member of the regular armed forces of the Crown or was the spouse of a person occupying accommodation so provided and also occupied that accommodation.

*Periods during which right to buy is preserved*

**5A.** A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the qualifying person, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

was a qualifying person for the purposes of the preserved right to buy or was the spouse of such a person and occupied the qualifying dwelling-house as his only or principal home.

*Meaning of “public sector tenant”*

**6.—**(1) In this Schedule a “public sector tenant” means a tenant under a public sector tenancy.

(2) For the purposes of this Schedule, a tenancy, other than a long tenancy, under which a dwelling-house was let as a separate dwelling was a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant conditions were satisfied.

(3) The provisions of this Schedule apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

(4) Sub-paragraph (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

*The landlord condition*

**7.—**(1) The landlord condition is, subject to paragraph 7A and to any order under paragraph 8, that the interest of the landlord belonged to, or to a predecessor of—

- a local authority,
- a new town corporation,
- a housing action trust,
- the Development Board for Rural Wales,
- an urban development corporation,
- the Corporation,
- a registered housing association which is not a co-operative housing association,

or to, or to a predecessor of, an authority or other body falling within sub-paragraph (2) or (3) (corresponding authorities and bodies in Scotland and Northern Ireland).

(2) The corresponding authorities and bodies in Scotland are—

- a regional, islands or district council,
- a joint board or joint committee of such a council,
- the common good of such a council or a trust under its control,
- a development corporation, established by an order made or having effect as if made under the New Towns (Scotland) Act 1968,

Scottish Homes,

a housing association which falls within section 6(2)(a)(vi) of the Housing (Scotland) Act 1987 but is not a registered society within the meaning of section 45 of that Act.

(3) The corresponding authorities and bodies in Northern Ireland are—

a district council within the meaning of the Local Government Act (Northern Ireland) 1972, the Northern Ireland Housing Executive, and

a registered housing association within the meaning of Chapter II of Part II of the Housing (Northern Ireland) Order 1983.

**7A.**—(1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—

(a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or

(b) in Scotland, by an islands or district council,

if the interest of the landlord belonged to the housing co-operative.

(2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—

(a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and

(b) as regards Scotland mean an agreement made under section 22 of the Housing (Scotland) Act 1987 and a housing co-operative within the meaning of that section.

**8.**—(1) The landlord condition shall also be treated as having been satisfied, in such circumstances as may be prescribed for the purposes of this paragraph by order of the Secretary of State, if the interest of the landlord belonged to a person who is so prescribed.

(2) An order under this paragraph—

(a) may make different provision with respect to different cases or description of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *The tenant condition*

**9.** The tenant condition is that the tenant was an individual and occupied the dwelling-house as his only or principal home; or, where the tenancy was a joint tenancy, that each of the joint tenants was an individual and at least one of them occupied the dwelling-house as his only or principal home.

#### *Application to certain housing association tenancies*

**10.** For the purpose of determining whether at any time a tenant of a housing association was a public sector tenant and his tenancy a public sector tenancy, the association shall be deemed to have been registered at that time, under the Housing Associations Act 1985 or the corresponding Northern Ireland legislation, if it was so registered at any later time.

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

## SCHEDULE 5

Section 120.

### EXCEPTIONS TO THE RIGHT TO BUY

#### *Certain housing associations*

2. The right to buy does not arise if the landlord is a co-operative housing association.

#### *Landlord with insufficient interest in the property*

4. The right to buy does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of this Part for—

- (a) where the qualifying dwelling-house is a house, a term exceeding 21 years, or
- (b) where the qualifying dwelling-house is a flat, a term of not less than 50 years,

commencing, in either case, with the date on which the qualifying person's notice claiming to exercise the right to buy is served.

#### *Qualifying dwelling-houses let in connection with employment*

- 5.—(1) The right to buy does not arise if the qualifying dwelling-house—

- (a) forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
- (b) was let to the qualifying person or a predecessor in title of his in consequence of the qualifying person or predecessor being in the employment of

the landlord or of—

- a local authority,
- a new town corporation,
- a housing action trust,
- the Development Board for Rural Wales,
- an urban development corporation, or
- the governors of an aided school.

(2) In sub-paragraph (1)(a) "housing purposes" means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes.

#### *Certain qualifying dwelling-houses for the disabled*

7. The right to buy does not arise if the qualifying dwelling-house has features which are substantially different from those of ordinary dwelling-houses and are designed to make it suitable for occupation by physically disabled persons, and—

- (a) it is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by physically disabled persons, and
- (b) a social service or special facilities are provided in close proximity to the group of dwelling-houses wholly or partly for the purpose of assisting those persons.

- 9.—(1) The right to buy does not arise if—



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

- (a) the qualifying dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who are suffering or have suffered from a mental disorder, and
  - (b) a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.
- (2) In sub-paragraph (1)(a) “mental disorder” has the same meaning as in the Mental Health Act 1983.

*Certain qualifying dwelling-houses for persons of pensionable age*

**10.**—(1) The right to buy does not arise if the qualifying dwelling-house is one of a group of dwelling-houses—

- (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by elderly persons, and
- (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, or for occupation by such persons and physically disabled persons,

and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.

(2) The facilities referred to above are facilities which consist of or include—

- (a) the services of a resident warden, or
- (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.

**11.**—(1) The right to buy does not arise if the qualifying dwelling-house—

- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and
- (b) was let to the qualifying person or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the qualifying person or another person).

(2) In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the qualifying person or a predecessor in title of his.

(3) Notwithstanding anything in section 181 (jurisdiction of county court), any question arising under this paragraph shall be determined as follows.

(4) If an application for the purpose is made by the qualifying person to the Secretary of State before the end of the period of 56 days beginning with the service of the landlord’s notice under section 124, the question shall be determined by the Secretary of State.

(5) If no such application is so made, the question shall be deemed to have been determined in favour of the landlord.

(6) This paragraph does not apply unless the qualifying dwelling-house concerned was first let before 1st January 1990.

*Qualifying dwelling-houses held on Crown tenancies*

**12.**—(1) The right to buy does not arise if the qualifying dwelling-house is held by the landlord on a tenancy from the Crown, unless—

- (a) the landlord is entitled to grant a lease in pursuance of this Part without the concurrence of the appropriate authority, or

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

- (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.
- (2) In this paragraph “tenancy from the Crown” means a tenancy of land in which there is a Crown interest superior to the tenancy, and “Crown interest” and “appropriate authority” mean respectively—
  - (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
  - (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
  - (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
  - (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.
- (3) Section 179(1) (which renders ineffective certain provisions restricting the grant of leases under this Part) shall be disregarded for the purposes of sub-paragraph (1)(a).

## SCHEDULE 5A

Section 131

### LIMITS ON AMOUNT OF DISCOUNT RELEVANT COSTS

#### *Introductory*

**1.** In this Schedule—

“cost floor” means the amount mentioned in section 131(1)(a) (limits on amount of discount), and

“relevant costs” means costs to be taken into account for the purposes of section 131(1)(a).

#### *Relevant costs and relevant works*

**2.** Costs shall be treated as relevant costs if, and only to the extent that, they are not administrative costs or interest.

**3.** Works of improvement to a qualifying dwelling-house are relevant works but works of repair or maintenance or works to deal with any defect affecting the qualifying dwelling-house are not relevant works.

**4.** Costs incurred on any relevant works shall not be treated as relevant costs if payment for them is made on or after the date of service of the qualifying person’s notice under section 122 (notice claiming to exercise right to buy) unless—

- (a) the landlord has before that date entered into a written contract for the carrying out of the works; or
- (b) the qualifying person has agreed in writing to the carrying out of works and either the works have been carried out not later than the date of service of the landlord’s notice under section 125 (notice of purchase price etc.) or the works will be carried out under the proposed terms of the conveyance or grant.

### *Ascertainment of cost floor*

5.—(1) The cost floor is an amount equal to the aggregate of the costs which under sub-paragraph (2) may be treated as relevant costs.

(2) The costs which may be treated as relevant costs are the costs incurred by the landlord in respect of—

- (a) the acquisition of the qualifying dwelling-house, or
- (b) the construction of the qualifying dwelling-house (including development works and the acquisition of land), or
- (c) relevant works to the qualifying dwelling-house.

(3) Where the landlord has previously disposed of the qualifying dwelling-house and has subsequently re-acquired it in circumstances in which discount was recovered in whole or part, only the costs of re-acquisition net of any discount recovered shall be taken into account for the purposes of sub-paragraph (2)(a).

### *Estimates*

6. An estimate may be made for the purposes of arriving at the cost floor for a qualifying dwelling-house where the amount of any relevant costs or payments for them cannot readily be ascertained.

### *Companies*

7.—(1) In a case where a landlord is a company, references to the landlord in paragraphs 4(a) and 5(2) and (3) include references to a connected company.

(2) For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

## SCHEDULE 6

Section 139

### CONVEYANCE OF FREEHOLD AND GRANT OF LEASE IN PURSUANCE OF RIGHT TO BUY

## PART I

### COMMON PROVISIONS

#### *Rights to be conveyed or granted—general*

1. The conveyance or grant shall not exclude or restrict the general words implied under section 62 of the Law of Property Act 1925, unless the qualifying person consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant’s incumbrances or an existing right or interest of another person.

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

*Rights of support, passage of water, etc.*

2.—(1) The conveyance or grant shall, by virtue of this Schedule, have the effect stated in subparagraph (2) as regards—

- (a) rights of support for a building or part of a building;
- (b) rights to the access of light and air to a building or part of a building;
- (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
- (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions.

(2) The effect is—

- (a) to grant with the qualifying dwelling-house all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the qualifying person as near as may be the same rights as at the relevant time were available to him under or by virtue of his tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made on the severance of the qualifying dwelling-house from other property then comprised in the same tenancy; and
- (b) to make the qualifying dwelling-house subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the qualifying person under or by virtue of his tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made as mentioned in paragraph (a).

(3) This paragraph—

- (a) does not restrict any wider operation which the conveyance or grant may have apart from this paragraph; but
- (b) is subject to any provision to the contrary that may be included in the conveyance or grant with the consent of the qualifying person.

*Rights of way*

3. The conveyance or grant shall include—

- (a) such provisions (if any) as the qualifying person may require for the purpose of securing to him rights of way over land not comprised in the qualifying dwelling-house, so far as the landlord is capable of granting them, being rights of way that are necessary for the reasonable enjoyment of the qualifying dwelling-house; and
- (b) such provisions (if any) as the landlord may require for the purpose of making the qualifying dwelling-house subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

*Convenants and conditions*

4. The conveyance or grant shall include such provisions (if any) as the landlord may require to secure that a qualifying person is bound by, or to indemnify the landlord against breaches of, restrictive covenants (that is to say, covenants or agreements restrictive of the use of any land

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

or premises) which affect the qualifying dwelling-house otherwise than by virtue of the qualifying person's tenancy or an agreement collateral to it and are enforceable for the benefit of other property.

5. Subject to paragraph 6, and to Parts II and III of this Schedule, the conveyance or grant may include such covenants and conditions as are reasonable in the circumstances.

*No charge to be made for landlord's consent or approval*

6. A provision of the conveyance or lease is void in so far as it purports to enable the landlord to charge the qualifying person a sum for or in connection with the giving of a consent or approval.

*Meaning of "incumbrances" and "tenant's incumbrance"*

7. In this Schedule—

"incumbrances" includes personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on the land or interest; and

"tenant's incumbrance" means—

- (a) an incumbrance on the qualifying person's tenancy which is also an incumbrance on the reversion, and
- (b) an interest derived, directly or indirectly, out of that tenancy.

## PART II

### CONVEYANCE OF FREEHOLD

*General*

8. The conveyance shall not exclude or restrict the all estate clause implied under section 63 of the Law of Property Act 1925, unless the qualifying person consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

9.—(1) The conveyance shall be of an estate in fee simple absolute, subject to—

- (a) tenant's incumbrances,
- (b) burdens (other than burdens created by the conveyance) in respect of the upkeep or regulation for the benefit of any locality or any land, building, structure, works, ways or watercourses;

but otherwise free from incumbrances.

(2) Nothing in sub-paragraph (1) shall be taken as affecting the operation of paragraph 5 of this Schedule (reasonable covenants and conditions).

*Covenants*

10. The conveyance shall be expressed to be made by the landlord as beneficial owner (thereby implying the covenant set out in Part I of Schedule 2 to the Law of Property Act 1925 (covenant for title)).

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

## PART III LEASES

### *General*

**11.** A lease shall be for the appropriate term defined in paragraph 12 and at a rent not exceeding £10 per annum, and the following provisions have effect with respect to the other terms of the lease.

### *The appropriate term*

**12.—**(1) If at the time the grant is made the landlord's interest in the qualifying dwelling-house is not less than a lease for a term of which more than 125 years and five days are unexpired, the appropriate term is a term of not less than 125 years.

(2) In any other case the appropriate term is a term expiring five days before the term of the landlord's lease of the qualifying dwelling-house (or, as the case may require, five days before the first date on which the term of any lease under which the landlord holds any part of the qualifying dwelling-house) is to expire.

### *Common use of premises and facilities*

**13.** Where the qualifying dwelling-house is a flat and the qualifying person enjoyed, during his tenancy, the use in common with others of any premises, facilities or services, the lease shall include rights to the like enjoyment, so far as the landlord is capable of granting them, unless otherwise agreed between the landlord and the qualifying person.

### *Covenants by the landlord*

**14.—**(1) This paragraph applies where the qualifying dwelling-house is a flat.

(2) There are implied covenants by the landlord—

- (a) to keep in repair the structure and exterior of the qualifying dwelling-house and of the building in which it is situated (including drains, gutters and external pipes) and to make good any defect affecting that structure;
- (b) to keep in repair any other property over or in respect of which the tenant has rights by virtue of this Schedule;
- (c) to ensure, so far as practicable, that services which are to be provided by the landlord and to which the tenant is entitled (whether by himself or in common with others) are maintained at a reasonable level and to keep in repair any installation connected with the provision of those services.

(3) There is an implied covenant that the landlord shall rebuild or reinstate the qualifying dwelling-house and the building in which it is situated in the case of destruction or damage by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.

(3A) Sub-paragraphs (2) and (3) have effect subject to paragraph 15(3) (certain obligations not to be imposed, where landlord's title is leasehold, by reason of provisions of superior lease).

(4) The county court may, by order made with the consent of the parties, authorise the inclusion in the lease or in an agreement collateral to it of provisions excluding or modifying the obligations of the landlord under the covenants implied by this paragraph, if it appears to the court that it is reasonable to do so.

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

**15.—(1)** This paragraph applies where the landlord’s interest in the qualifying dwelling-house is leasehold.

(2) There is implied a covenant by the landlord to pay the rent reserved by the landlord’s lease and, except in so far as they fall to be discharged by the tenant, to discharge its obligations under the covenants contained in that lease.

(3) A covenant implied by virtue of paragraph 14 (implied covenants where qualifying dwelling-house is a flat) shall not impose on the landlord an obligation which the landlord is not entitled to discharge under the provisions of the landlord’s lease or a superior lease.

(4) Where the landlord’s lease or a superior lease, or an agreement collateral to the landlord’s lease or a superior lease, contains a covenant by a person imposing obligations which, but for subparagraph (3), would be imposed by a covenant implied by virtue of paragraph 14, there is implied a covenant by the landlord to use its best endeavours to secure that that person’s obligations under the first-mentioned covenant are discharged.

#### *Covenant by tenant*

**16.** Unless otherwise agreed between the landlord and the qualifying person, there is implied a covenant by the tenant—

- (a) where the qualifying dwelling-house is a house, to keep the qualifying dwelling-house in good repair (including decorative repair);
- (b) where the qualifying dwelling-house is a flat, to keep the interior of the qualifying dwelling-house in such repair.

#### *Service charges and other contributions payable by the tenant*

**16A.—(1)** The lease may require the tenant to bear a reasonable part of the costs incurred by the landlord—

- (a) in discharging or insuring against the obligations imposed by the covenants implied by virtue of paragraph 14(2) (repairs, making good structural defects, provision of services, etc.), or
- (b) in insuring against the obligations imposed by the covenant implied by virtue of paragraph 14(3) (rebuilding or reinstatement, etc.),

and to the extent that by virtue of paragraph 15(3) (effect of provision of superior lease) such obligations are not imposed on the landlord, to bear a reasonable part of the costs incurred by the landlord in contributing to costs incurred by a superior landlord or other person in discharging or, as the case may be, insuring against obligations to the like effect.

(2) Where the lease requires the tenant to contribute to the costs of insurance, it shall provide that the tenant is entitled to inspect the relevant policy at such reasonable times as may be specified in the lease.

(3) Where the landlord does not insure against the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.

(4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.

(5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).

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

**16B.**—(1) Where a lease of a flat requires the tenant to pay service charges in respect of repairs (including works for the making good of structural defects), his liability in respect of costs incurred in the initial period of the lease is restricted as follows.

(2) He is not required to pay in respect of works itemised in the estimates contained in the landlord's notice under section 125 any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.

(3) He is not required to pay in respect of works not so itemised at a rate exceeding—

- (a) as regards parts of the initial period falling within the reference period for the purposes of the estimates contained in the landlord's notice under section 125, the estimated annual average amount shown in the estimates;
- (b) as regards parts of the initial period not falling within that reference period, the average rate produced by averaging over the reference period all works for which estimates are contained in the notice;

together, in each case, with an inflation allowance.

(4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—

- (a) if the lease includes provision for service charges to be payable in respect of costs incurred in a period before the grant of a lease, the initial period begins with the beginning of that period;
- (b) if the lease provides for service charges to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease.

**16C.**—(1) Where a lease of a flat requires the tenant to pay improvement contributions, his liability in respect of costs incurred in the initial period of the lease is restricted as follows.

(2) He is not required to make any payment in respect of works for which no estimate was given in the landlord's notice under section 125.

(3) He is not required to pay in respect of works for which an estimate was given in that notice any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.

(4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—

- (a) if the lease includes provision for improvement contributions to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;
- (b) if the lease provides for improvement contributions to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease.

**16D.**—(1) The Secretary of State may by order prescribe—

- (a) the method by which inflation allowances for the purposes of paragraph 16B or 16C are to be calculated by reference to published statistics; and
- (b) the information to be given to a qualifying person when he is asked to pay a service charge or improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.

(2) An order—



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

- (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
- (b) may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks appropriate; and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Avoidance of certain provisions*

**17.**—(1) A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to prohibit or restrict the assignment of the lease or the subletting, wholly or in part, of the qualifying dwelling-house.

(2) Sub-paragraph (1) has effect subject to section 157 (restriction on disposal of qualifying dwelling-houses in National Parks, etc.).

**18.** Where the qualifying dwelling-house is a flat, a provision of the lease or of an agreement collateral to it is void in so far as it purports—

- (a) to authorise the recovery of such a charge as is mentioned in paragraph 16A (contributions in respect of repairs, etc.) otherwise than in accordance with that paragraph and paragraph 16B (restrictions in initial period of lease); or
- (b) to authorise the recovery of any charge in respect of costs incurred by the landlord—
  - (i) in discharging the obligations imposed by the covenant implied by paragraph 14(3) (rebuilding or reinstatement, etc.), or those obligations as modified in accordance with paragraph 14(4), or
  - (ii) in contributing to costs incurred by a superior landlord or other person in discharging obligations to the like effect; or
- (c) to authorise the recovery of an improvement contribution otherwise than in accordance with paragraph 16C (restrictions in initial period of lease).

**19.** A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to authorise a forfeiture, or to impose on the tenant a penalty or disability, in the event of his enforcing or relying on the preceding provisions of this Schedule.

## PART IV CHARGES

### *Grant of lease*

**20.** A charge (however created or arising) on the interest of the landlord which is not a tenant's incumbrance does not affect a lease granted in pursuance of the right to buy.

### *Conveyance of freehold*

**21.**—(1) This paragraph applies to a charge (however created or arising) on the freehold where the freehold is conveyed in pursuance of the right to buy.

(2) If the charge is not a tenant's incumbrance and is not a rentcharge the conveyance is effective to release the freehold from the charge but the release does not affect the personal liability of the landlord or any other person in respect of any obligation which the charge was created to secure.

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

- (3) If the charge is a rentcharge the conveyance shall be made subject to the charge; but if the rentcharge also affects other land—
- (a) the conveyance shall contain a covenant by the landlord to indemnify the qualifying person and his successors in title in respect of any liability arising under the rentcharge, and
  - (b) if the rentcharge is of a kind which may be redeemed under the Rentcharges Act 1977 the landlord shall immediately after the conveyance take such steps as are necessary to redeem the rentcharge so far as it affects land owned by him.
- (4) In this paragraph “rentcharge” has the same meaning as in the Rentcharges Act 1977; and—
- (a) for the purposes of sub-paragraph (3) land is owned by a person if he is the owner of it within the meaning of section 13(1) of that Act, and
  - (b) for the purposes of that sub-paragraph and that Act land which has been conveyed by the landlord in pursuance of the right to buy but subject to the rentcharge shall be treated as if it had not been so conveyed but had continued to be owned by him.

## SCHEDULE 9A

Section 171G

### LAND REGISTRATION AND RELATED MATTERS WHERE RIGHT TO BUY PRESERVED

#### *Statement to be contained in instrument effecting qualifying disposal*

1. On a qualifying disposal, the disponent shall secure that the instrument effecting the disposal—
- (a) states that the disposal is, so far as it relates to dwelling-houses occupied by secure tenants, a disposal to which section 171A applies (preservation of right to buy on disposal to private landlord), and
  - (b) lists, to the best of the disponent’s knowledge and belief, the dwelling-houses to which the disposal relates which are occupied by secure tenants.

#### *Registration of title on qualifying disposal*

- 2.—(1) Where, on a qualifying disposal the disponent’s title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies—
- (a) whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force, and
  - (b) whether or not, where the disposal takes the form of the grant or assignment of a lease, the lease is granted for a term of more than 21 years or, as the case may be, is a lease for a term of which more than 21 years are unexpired.
- (2) In such a case the disponent shall give the disponentee a certificate stating that the disponent is entitled to effect the disposal subject only to such incumbrances, rights and interests as are stated in the instrument effecting the disposal or summarised in the certificate.
- (3) Where the disponent’s interest in the dwelling-house is a lease, the certificate shall also state particulars of the lease and, with respect to each superior title—
- (a) where it is registered, the title number;
  - (b) where it is not registered, whether it was investigated in the usual way on the grant of the disponent’s lease.
- (4) The certificate shall be—

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

- (a) in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the disponent or such other person as may be approved by the Chief Land Registrar,

and the Chief Registrar shall, for the purpose of registration of title, accept the certificate as sufficient evidence of the facts stated in it.

3. Where a qualifying disposal takes the form of the grant or assignment of a lease, sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years; and accordingly section 70(1)(k) of that Act (leases which are overriding interests) does not apply.

#### *Entries on register protecting preserved right to buy*

4. The Chief Land Registrar on application being made for registration of a disposition of registered land or, as the case may be, of the disponent's title under a disposition of unregistered land, shall, if the instrument effecting the disposal contains the statement required by paragraph 1, enter in the register—

- (a) a notice protecting the rights of qualifying persons under this Part in relation to dwelling-houses comprised in the disposal, and
- (b) a restriction stating the requirement of consent under section 171D(2) for certain subsequent disposals of the landlord's interest.

#### *Change of qualifying dwelling-house*

5.—(1) This paragraph applies where by virtue of section 171B(6) a new dwelling-house becomes the qualifying dwelling-house which—

- (a) is entirely different from the previous qualifying dwelling-house, or
- (b) includes new land,

and applies to the new dwelling-house or the new land, as the case may be.

(2) If the landlord's title is registered, the landlord shall apply for the entry on the register of—

- (a) a notice protecting the rights of the qualifying person or persons under the provisions of this Part, and
- (b) a restriction stating the requirement of consent under section 171D(2) for certain disposals of the landlord's interest.

(3) A qualifying person may apply for the entry of such a notice and restriction and section 64(1) of the Land Registration Act 1925 (production of land certificate) does not apply to the entry of a notice or restriction on such an application; but without prejudice to the power of the Chief Land Registrar to call for the production of the certificate by the landlord.

(4) If the landlord's title is not registered, the rights of the qualifying person or persons under the provisions of this Part are registrable under the Land Charges Act 1972 in the same way as an estate contract and the landlord shall, and qualifying person may, apply for such registration.

#### *Effect of non-registration*

6.—(1) The rights of a qualifying person under this Part in relation to the qualifying dwelling-house—

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

- (a) shall be treated as interests to which sections 20 and 23 of the Land Registration Act 1925 apply (under which the transferee or grantee under a registered disposition takes free from estates and interests which are not protected on the register and are not overriding interests), and
- (b) shall not be treated as overriding interests for the purposes of that Act, notwithstanding that the qualifying person is in actual occupation of the land.

(2) Where by virtue of paragraph 5(4) the rights of a qualifying person under this Part in relation to the qualifying dwelling-house are registrable under the Land Charges Act 1972 in the same way as an estate contract, section 4(6) of that Act (under which such a contract may be void against a purchaser unless registered) applies accordingly, with the substitution for the reference to the contract being void of a reference to the right to buy ceasing to be preserved.

*Statement required on certain disposals on which right to buy ceases to be preserved*

7.—(1) A conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person in pursuance of the right to buy shall state that it is made in pursuance of the provisions of this Part as they apply by virtue of section 171A (preservation of the right to buy).

(2) Where on a conveyance of the freehold or grant of a lease of the qualifying dwelling-house to a qualifying person otherwise than in pursuance of the right to buy the dwelling-house ceases to be subject to any rights arising under this Part, the conveyance or grant shall contain a statement to that effect.

(3) Where on a disposal of an interest in a qualifying dwelling-house the dwelling-house ceases to be subject to the rights of a qualifying person under this Part by virtue of section 171D(1)(a) or 171E(2)(a) (qualifying person becoming tenant of authority or body satisfying landlord condition for secure tenancies), the instrument by which the disposal is effected shall state that the dwelling-house ceases as a result of the disposal to be subject to any rights arising by virtue of section 171A (preservation of the right to buy).

*Removal of entries on land register*

8. Where the registered title to land contains an entry made by virtue of this Schedule, the Chief Land Registrar shall, for the purpose of removing or amending the entry, accept as sufficient evidence of the facts stated in it a certificate by the registered proprietor that the whole or a specified part of the land is not subject to any rights of a qualifying person under this Part.

*Liability to compensate or indemnify*

9.—(1) An action for breach of statutory duty lies where—

- (a) the disponent on a qualifying disposal fails to comply with paragraph 1 (duty to secure inclusion of statement in instrument effecting disposal), or
- (b) the landlord on a change of the qualifying dwelling-house fails to comply with paragraph 5(2) or (4) (duty to apply for registration protecting preserved right to buy),

and a qualifying person is deprived of the preserved right to buy by reason of the non-registration of the matters which would have been registered if that duty had been complied with.

(2) If the Chief Land Registrar has to meet a claim under the Land Registration Acts 1925 to 1986 as a result of acting upon—

- (a) a certificate given in pursuance of paragraph 2 (certificate of title on first registration),

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

- (b) a statement made in pursuance of paragraph 7 (statements required on disposal on which right to buy ceases to be preserved), or
- (c) a certificate given in pursuance of paragraph 8 (certificate that dwelling-house has ceased to be subject to rights under this Part),

the person who gave the certificate or made the statement shall indemnify him.

*Meaning of “disposal” and “instrument effecting disposal”*

**10.** References in this Schedule to a disposal or to the instrument effecting a disposal are to the conveyance, transfer, grant or assignment, as the case may be.

SCHEDULE 3

Regulation 3(1)

TRANSITIONAL MODIFICATIONS TO PART V OF THE HOUSING ACT 1985

- 1.** For subsection 125(5)(**63**) (landlord’s notice of purchase price and other matters) substitute—
  - “(5) The notice shall also inform the qualifying person of—
    - (a) the effect of sections 125D and 125E(1) and (4) (qualifying person’s notice of intention, landlord’s notice in default and effect of failure to comply),
    - (b) his right under section 128 to have the value of the qualifying dwelling-house at the relevant time determined or re-determined by the district valuer,
    - (c) the effect of section 136(2) (change of qualifying person after service of notice under section 125), and
    - (d) the effect of 140, 141(1), (2) and (4) and section 142(1) and (2) (landlord’s notices to complete and effect of failure to comply and right to defer completion).”.
- 2.** For subsection 140(3)(**64**) (landlord’s first notice to complete) substitute—
  - “(3) A notice under this section shall not be served earlier than—
    - (a) 12 months after the service of the landlord’s notice under section 125 (notice of purchase price and other matters), or
    - (b) three years after the service of the notice under section 122 (qualifying person’s notice claiming to exercise the right to buy) where the qualifying person is entitled to defer completion, if that period expires after the period specified in paragraph (a) above.”.
- 3.** For section 142(**65**) (when qualifying person is entitled to defer completion) substitute—
  - (1) A qualifying person is entitled to defer completion if—
    - (a) his reckonable amount calculated in accordance with Schedule 6B (or the aggregate of such amounts where the right to buy is being exercised by more than one person) is less than the purchase price of the qualifying dwelling-house;
    - (b) he has, within the period mentioned below, served on the landlord a notice claiming to exercise the right to defer completion; and

**(63)** Section 125(5) was substituted by section 104 of the Leasehold Reform, Housing and Urban Development Act 1993.

**(64)** Section 140(3) was substituted by paragraph 12 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

**(65)** Section 142 was repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993 subject to the transitional provisions in S.I. 1993/

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

(c) he has, within the same period, deposited the sum of £150 with the landlord.

(2) The notice must be served and the sum of £150 deposited within the period of three months beginning with the service on the qualifying person—

(a) where he exercised his right under section 128 (determination of value by district valuer), of the notice under subsection (5) of that section (further notice by landlord after determination), or

(b) where he does not exercise that right, of the notice under section 125 (landlord's notice of purchase price and other matters),

or within that period as extended in writing by the landlord.

(3) Where a qualifying person has served on the landlord a notice under subsection (1) (b), the landlord shall, as soon as practicable after the date on which the notice is served, serve on the qualifying person a notice either—

(a) admitting the qualifying person's right to defer completion, or

(b) denying it and stating the reasons why, in the landlord's opinion, the qualifying person does not have the right.

(4) If in pursuance of a notice under this section the qualifying person deposits the sum of £150 with the landlord, then—

(a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and

(b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord's second notice to complete), the sum shall be returned to him.”.

4. After Schedule 6A(66) insert—

“SCHEDULE 6B

Section 142(1)

RECKONABLE AMOUNT OF QUALIFYING PERSON  
FOR PURPOSES OF RIGHT TO DEFER COMPLETION

*Introductory*

1. This Schedule has effect with respect to the calculation of a qualifying person's reckonable amount for the purpose of ascertaining whether he is entitled to defer completion.

2. In this Schedule—

“admissible source” means a source of income of the qualifying person which is to be taken into account for the purposes of this Schedule; and

“qualifying person” means a person who is exercising the preserved right to buy.

*Reckonable amount*

3. The qualifying person's reckonable amount for the purposes of section 142 (deferment of completion) is to be calculated by taking the amount which, in accordance with paragraphs 4 to 7, is his annual income and multiplying it by such factor as, under paragraph 10, is appropriate to the case.

---

(66) Schedule 6A was inserted by section 117(2) of and Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

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

#### *Income from employment*

4.—(1) This paragraph applies to income from an employment.

(2) The amount to be taken into account as income to which this paragraph applies is the qualifying persons'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 paragraph—

“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 (but not an expense allowance), tip, gratuity or other payment made to the qualifying person 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*

5.—(1) This paragraph applies to income from a business carried on by the qualifying person (whether or not with any other person).

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

(3) In this paragraph “business” includes any trade, profession or vocation.

#### *Other income*

6.—(1) This paragraph applies to income from a source to which paragraphs 4 and 5 do not apply.

(2) No account shall be taken of state benefits other than benefits under—

(a) sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefits); and

(b) sections 43 to 55 and 78 to 79 of the Social Security Contributions and Benefits Act 1992 (retirement pensions).

(3) The amount to be taken into account as the qualifying person's annual income from a source to which this paragraph applies, which is not excluded from account by sub-paragraph (2), is an amount which before any statutory or other deduction represents the qualifying person's current income from that source expressed as an annual amount.

(4) In this paragraph “state benefits” means any benefits under the Social Security Contributions and Benefits Act 1992 or the National Insurance Act 1965.

#### *Income from more than one source*

7. If the qualifying person has income from more than one admissible source, the amount to be taken into account as his annual income shall be the total amount of his annual income from all admissible sources determined in accordance with the provisions of this Schedule.

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

*Estimates*

8. The landlord may accept any estimate for the purposes of paragraphs 4 to 6.

*Joint tenants*

9. Where the right to buy is being exercised by more than one qualifying person, the preceding provisions of this Schedule shall be applied separately to determine the amount of each person’s annual income.

*Multipliers*

10.—(1) This paragraph specifies the appropriate factor to be applied as a multiplier of the qualifying person’s annual income to arrive at his reckonable amount.

(2) If the qualifying person’s income is the principal income, the appropriate factor in relation to his annual income is the multiplier shown in the following Table corresponding to his age on the date of service of the notice under section 122 claiming to exercise the right to buy.

TABLE

Qualifying person’s age on the date of service of the notice	Multiplier
Under 60	2.5
60 and over but under 65	2.0
65 and over	1.0

(3) If the qualifying person’s income is not the principal income, the appropriate factor in relation to his annual income is 1.

(4) Subject to sub-paragraph (5), the qualifying person’s income is the principal income for the purposes of this paragraph if—

- (a) he is the only qualifying person with annual income, or
- (b) there is more than one qualifying person with annual income and the amount of his annual income is larger than that of the other qualifying person or, as the case may be, of any of the other qualifying persons, or
- (c) in a case to which paragraph (b) applies, the landlord agrees to treat the qualifying person’s income as the principal income, despite the fact that the amount of the annual income of another qualifying person is larger than his.

(5) The income of only one qualifying person shall be treated as the principal income for the purposes of this paragraph.”.



SCHEDULE 4

Regulation 3(2)

ADDITIONAL OR SUBSTITUTED PROVISIONS TO BE  
INSERTED IN SCHEDULE 2 IN TRANSITIONAL CASES

**Landlord's notice of purchase price and other matters**

- 125.**—(5) The notice shall also inform the qualifying person of—
- (a) the effect of sections 125D and 125E(1) and (4) (qualifying person's notice of intention, landlord's notice in default and effect of failure to comply),
  - (b) his right under section 128 to have the value of the qualifying dwelling-house at the relevant time determined or re-determined by the district valuer,
  - (c) the effect of section 136(2) (change of qualifying person after service of notice under section 125), and
  - (d) the effect of sections 140, 141(1), (2) and (4) and 142(1) and (2) (landlord's notices to complete and effect of failure to comply and right to defer completion).

**Landlord's first notice to complete.**

- 140.**—(3) A notice under this section shall not be served earlier than—
- (a) 12 months after the service of the landlord's notice under section 125 (notice of purchase price and other matters), or
  - (b) three years after the service of the notice under section 122 (qualifying person's notice claiming to exercise the right to buy) where the qualifying person is entitled to defer completion, if that period expires after the period specified in paragraph (a) above.

**When qualifying person is entitled to defer completion.**

- 142.**—(1) A qualifying person is entitled to defer completion if—
- (a) his reckonable amount calculated in accordance with Schedule 6B (or the aggregate of such amounts where the right to buy is being exercised by more than one person) is less than the purchase price of the qualifying dwelling-house;
  - (b) he has, within the period mentioned below, served on the landlord a notice claiming to exercise the right to defer completion; and
  - (c) he has, within the same period, deposited the sum of £150 with the landlord.
- (2) The notice must be served and the sum of £150 deposited within the period of three months beginning with the service on the qualifying person—
- (a) where he exercises his right under section 128 (determination of value by district valuer), of the notice under subsection (5) of that section (further notice by landlord after determination), or
  - (b) where he does not exercise that right, of the notice under section 125 (landlord's notice of purchase price and other matters),

or within that period as extended in writing by the landlord.

(3) Where a qualifying person has served on the landlord a notice under subsection (1)(b), the landlord shall, as soon as practicable after the date on which the notice is served, serve on the qualifying person a notice either—

- (a) admitting the qualifying person's right to defer completion, or

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

- (b) denying it and stating the reasons why, in the landlord’s opinion, the qualifying person does not have the right.
- (4) If in pursuance of a notice under this section the qualifying person deposits the sum of £150 with the landlord then—
  - (a) if he completes the transaction, the sum shall be treated as having been paid towards the purchase price, and
  - (b) if he does not complete the transaction but withdraws his notice claiming to exercise the right to buy, or is deemed to have withdrawn it by virtue of section 141(4) (effect of failure to comply with landlord’s second notice to complete), the sum shall be returned to him.

**Payments of rent attributable to purchase price etc.**

- (c) **153B.** (1) (c) the date on which the qualifying person serves notice under section 142(2) claiming to be entitled to defer completion;

SCHEDULE 6

Section 139

**PART III**

**LEASES**

*Service charges and other contributions payable by the tenant*

**16B.—(4)** , and

- (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.

**16C.—(4)** , and

- (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.

SCHEDULE 6B

Section 142(1)

**RECKONABLE AMOUNT OF QUALIFYING PERSON  
FOR PURPOSES OF RIGHT TO DEFER COMPLETION**

*Introductory*

**1.** This Schedule has effect with respect to the calculation of a qualifying person’s reckonable amount for the purpose of ascertaining whether he is entitled to defer completion.

**2.** In this Schedule—

“admissible source” means a source of income of the qualifying person which has to be taken into account for the purposes of this Schedule; and

“qualifying person” means a person who is exercising the preserved right to buy.

*Reckonable amount*

3. The qualifying person’s reckonable amount for the purposes of section 142 (deferment of completion) is to be calculated by taking the amount which, in accordance with paragraphs 4 to 7, is his annual income and multiplying it by such factor as, under paragraph 10, is appropriate to the case.

*Income from employment*

4.—(1) This paragraph applies to income from an employment.

(2) The amount to be taken into account as income to which this paragraph applies is the qualifying person’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 paragraph—

“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 (but not an expense allowance), tip, gratuity or other payment made to the qualifying person 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 business*

5.—(1) This paragraph applies to income from a business carried on by the qualifying person (whether or not with any other person).

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

(3) In this paragraph “business” includes any trade, profession or vocation.

*Other income*

6.—(1) This paragraph applies to income from a source to which paragraphs 4 and 5 do not apply.

(2) No account shall be taken of the state benefits other than benefits under—

(a) sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefits); and

(b) sections 43 to 55 and 78 to 79 of the Social Security Contributions and Benefits Act 1992 (retirement pensions).

(3) The amount to be taken as the qualifying person’s annual income from a source to which this paragraph applies, which is not excluded from account by sub-paragraph (2), is an amount which before any statutory or other deduction represents the qualifying person’s current income from that source expressed as an annual amount.

(4) In this paragraph “state benefits” means any benefits under the Social Security Contributions and Benefits Act 1992 or the National Insurance Act 1965.

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

*Income from more than one source*

7. If the qualifying person has income from more than one admissible source, the amount to be taken into account as his annual income shall be the total amount of his annual income from all admissible sources determined in accordance with the provisions of this Schedule.

*Estimates*

8. The landlord may accept any estimate for the purposes of paragraphs 4 to 6.

*Joint tenants*

9. Where the right to buy is being exercised by more than one qualifying person, the preceding provisions of this Schedule shall be applied separately to determine the amount of each person's annual income.

*Multipliers*

10.—(1) This paragraph specifies the appropriate factor to be applied as a multiplier of the qualifying person's annual income to arrive at his reckonable amount.

(2) If the qualifying person's income is the principal income, the appropriate factor in relation to his annual income is the multiplier shown in the following Table corresponding to his age on the date of service of the notice under section 122 claiming to exercise the right to buy.

TABLE

Qualifying person's age on the date of service of the notice	Multiplier
Under 60	2.5
60 and over but under 65	2.0
65 and over	1.0

(3) If the qualifying person's income is not the principal income, the appropriate factor in relation to his annual income is 1.

(4) Subject to sub-paragraph (5), the qualifying person's income is the principal income for the purposes of this paragraph if—

- (a) he is the only qualifying person with annual income, or
- (b) there is more than one qualifying person with annual income and the amount of his annual income is larger than that of the other qualifying person or, as the case may be, of any of the other qualifying persons, or
- (c) in a case to which paragraph (b) applies, the landlord agrees to treat the qualifying person's income as the principal income, despite the fact that the amount of the annual income of another qualifying person is larger than his.

(5) The income of only one qualifying person shall be treated as the principal income for the purposes of this paragraph.

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations modify Part V of the Housing Act 1985 (the right to buy) for cases where an authority or body disposes of a qualifying dwelling-house let to a secure tenant and the tenant's right to buy is preserved by section 171A of that Act, subject to the transitional provisions in regulation 1(2).

They consolidate the previous regulations on this and take account of the amendments made to Part V of the 1985 Act by the Leasehold Reform, Housing and Urban Development Act 1993. In particular, they disapply the provisions on rent to mortgage added to Part V by the 1993 Act. The modifications are made by regulation 2 and Schedule 1. Part V of the 1985 Act as so modified is set out in Schedule 2.

The Regulations also modify Part V of the 1985 Act in a case where the tenant has the right to defer completion under section 142 of that Act (which was repealed by the 1993 Act subject to transitional provisions). The modifications are made by regulation 3 and Schedule 3. Part V of the 1985 Act as so modified is set out in Schedule 2 as modified by Schedule 4.