

SCHEDULE 5

Section 120

EXCEPTIONS TO THE RIGHT TO ACQUIRE

Rural areas

1A. The right to acquire does not arise if the dwelling-house is situated in a rural area designated by order of the Secretary of State under section 17(1)(b) (right to acquire: supplementary provisions) of the Housing Act 1996.

Certain housing associations

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

Landlord with insufficient interest in the property

4. The right to acquire 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 dwelling-house is a house, a term exceeding 21 years, or
- (b) where the dwelling-house is a flat, a term of not less than 50 years,

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

Dwelling-houses let in connection with employment

5.—(1) The right to acquire does not arise if the 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 landhold, 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 tenant or a predecessor in title of his in consequence of the tenant 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 dwelling-houses for the disabled

7. The right to acquire does not arise if the 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

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- (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 acquire does not arise if—

- (a) the 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 dwelling houses for persons with special needs

9A.—(1) The right to acquire does not arise if the 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 have special needs and require intensive housing assistance and such intensive housing assistance is provided, either directly or indirectly, by the landlord.

(2) In this paragraph “intensive housing assistance” means the provision by the landlord to persons with special needs of assistance on housing issues which is significantly greater than the assistance which is generally provided by registered social landlords to tenants who do not have special needs.

(3) In this paragraph “persons who have special needs” means persons who are vulnerable as a result of age, physical disability or illness, a mental disorder or impairment of any kind, drug or alcohol addiction, violence or the threat of violence by a member of a person’s family, or other special reason.

Certain dwelling-houses for persons of pensionable age

10.—(1) The right to acquire does not arise if the 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.

Dwelling-houses held on Crown tenancies

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

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

Dwelling-houses where the debt is equal to or greater than the purchase price plus discount

13.—(1) The right to acquire does not arise if the net debt or the peak debt attributable to the dwelling-house on the date of service of the tenant’s notice under section 122 (tenant’s notice claiming to exercise right to acquire) is equal to or greater than the purchase price plus the discount.

(2) In sub-paragraph (1) the net debt is the amount of the relevant costs, as defined in sub-paragraph (4), less the amount of public subsidy as defined in sub-paragraph (5).

(3) In sub-paragraph (1) the peak debt is the amount under a loan agreement, as defined in sub-paragraph (6), that is the portion of the maximum amount which the landlord may borrow under a loan agreement which is attributable to the dwelling-house.

(4) In sub-paragraph (2) the “relevant costs” means the costs incurred by the landlord in respect of the dwelling-house, the construction of the dwelling-house (including the costs of development works and the acquisition of land) but does not include the costs of—

- (a) works of repair or maintenance;
- (b) works to deal with any defect affecting the dwelling-house;
- (c) works of improvement where they are paid for on or after the date of service of the tenant’s notice under section 122 unless—
 - (i) the landlord has before that date entered into a written contract for the carrying out of the works; or
 - (ii) the tenant has agreed in writing to the carrying out of the works and either the works have been carried out no later than the date of service of the landlord’s notice under section 125 (landlord’s notice of purchase price and other matters) or the works will be carried out under the proposed terms of the conveyance.

(5) In sub-paragraph (2) “public subsidy” means grant or other financial assistance of any kind used by the landlord in whole or in part in connection with the acquisition, construction (including the costs of development and the acquisition of land), repair, maintenance or improvement of the dwelling-house where such grant or assistance is received from—

the Housing Corporation in England and Housing for Wales in Wales under section 18 of the Housing Act 1996 (social housing grants),

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the Secretary of State under section 126 of the Housing Grants, Construction and Regeneration Act 1996 under the programme designated “City Challenge” in England and the programmes designated the “Strategic Development Scheme” and “Welsh Capital Challenge” in Wales, a local housing authority where grant is paid pursuant to an application by the landlord under Part VIII (grants towards the costs of improvements and repairs, etc.) of the Local Government and Housing Act 1989 or Chapter I of Part I (grants &c. for renewal of private sector housing) of the Housing Grants, Construction and Regeneration Act 1996,

National Lottery, and

a local authority in a case where the local authority has conveyed the freehold or the leasehold of land to the landlord at a price which is below the market value of the land at the time of the conveyance.

- (6) In sub-paragraph (3) a “loan agreement” means an agreement—
- (a) for a loan between a lender and the landlord which is wholly or partly secured by a charge (however created or arising) on the landlord’s interest in the dwelling-house,
 - (b) which specifies the portion of the maximum amount which the landlord may borrow in any period which is attributable to the dwelling-house, and
 - (c) which is for the purpose of the provision of monies for use in connection with the acquisition of land held for housing purposes and housing stock pursuant to a disposal under section 32 (power to dispose of land held for the purposes of this Part) of the Housing Act 1985; and where a loan is for such a purpose it may include the construction of dwelling-houses (including the costs of development works and the acquisition of land) and works of repair, maintenance or improvement to dwelling-houses pursuant to such acquisition.