
STATUTORY INSTRUMENTS

1999 No. 1213

HOUSING, ENGLAND AND WALES

The Housing (Preservation of Right to Buy) (Amendment) Regulations 1999

<i>Made</i>	- - - -	<i>22nd April 1999</i>
<i>Laid before Parliament</i>		<i>29th April 1999</i>
<i>Coming into force</i>	- -	<i>20th May 1999</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by section 171C of the Housing Act 1985(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Housing (Preservation of Right to Buy) (Amendment) Regulations 1999 and shall come into force on 20th May 1999.

Amendment

2. The Housing (Preservation of Right to Buy) Regulations 1993(2) in so far as they apply to dwelling-houses in England are amended by substituting, for Schedule 5A as set out in Part II of Schedule 1 (Modifications to Part V of the Housing Act 1985) and as set out in Schedule 2 (Part V as it applies in cases where the right to buy is preserved), the Schedule contained in the Schedule to these Regulations.

Application

3. 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 (tenant's notice claiming to exercise the right) was served before 20th May 1999.

(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50) and paragraph 19 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) and partly repealed by Schedule 22 to the 1993 Act.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) S.I.1993/2241.

Status: This is the original version (as it was originally made).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

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

22nd April 1999

SCHEDULE

Regulation 2

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

Relevant costs

2.—(1) Except where a case falls within paragraph 3 and subject to paragraph 4, the costs which may be treated as relevant costs are the following costs (including value added tax) incurred by the landlord—

- (a) the costs of construction of the dwelling-house (including site development works and the acquisition of land);
- (b) the costs of acquisition of the dwelling-house;
- (c) the costs of works initially required following the acquisition of the dwelling-house by the landlord to put it in good repair or to deal with any defect affecting it;
- (d) where the aggregate of the costs of works of repair or maintenance or works to deal with any defect affecting the dwelling-house (except works within paragraph (c) above) exceeds the sum of £5,500, the costs in excess of that amount; and
- (e) the costs of other works to the dwelling-house, except costs of the kind mentioned in paragraph (d).

(2) The following costs shall not be treated as relevant costs for the purposes of sub-paragraph (1)

- (a) any administrative costs;
- (b) interest; and
- (c) any costs which are recoverable by the landlord as a service charge or an improvement contribution.

3.—(1) Subject to paragraph 4, where the Secretary of State consented to the disposal of a qualifying dwelling-house under section 32 or 43 and the sale price attributed to the dwelling-house on that disposal was nil, the costs which may be treated as relevant costs are the following costs (including value added tax) incurred by the landlord—

- (a) the costs of works initially required following the acquisition of the dwelling-house by the landlord to put it in good repair or to deal with any defect affecting it;
- (b) the costs of works of repair or maintenance or works to deal with any defect affecting the dwelling-house;
- (c) the costs of improvement or other works to the dwelling-house;
- (d) the costs of works to any garage or parking area where the facility benefits the dwelling-house;
- (e) the costs of works to provide or improve any communal facility provided in particular for the benefit of the dwelling-house;

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- (f) professional fees and consultancy fees; and
 - (g) administrative costs not exceeding the sum of £2,000.
- (2) The following costs shall not be treated as relevant costs for the purposes sub-paragraph (1)—
- (a) interest; and
 - (b) any costs which are recoverable by the landlord as a service charge or an improvement contribution.
4. Costs incurred on any relevant works shall not be treated as relevant costs if payment for them was made—
- (a) in a period of account ending more than fifteen years before the date of service of the qualifying person’s notice under section 122; or
 - (b) on or after the date of service of the qualifying person’s notice under section 122 unless:—
 - (i) the landlord has before that date entered into a written contract for the carrying out of works; or
 - (ii) the qualifying person has agreed in writing to the carrying out of works and 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) or the works will be carried out under the proposed terms of the conveyance or grant; or
 - (iii) the qualifying person was served a notice in writing under paragraph 3(2) of Schedule 3A (consultation on transfer) and the costs come within paragraphs 2(1)(c) or 3(1)(a) above.

Ascertainment of cost floor

5. The cost floor is an amount equal to the aggregate of the costs which may be treated as relevant costs under the provisions of paragraph 2 or, as the case may be, paragraph 3, and of paragraph 4.

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 2, 3 and 4 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(3)

(3) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations amend the Housing (Preservation of Right to Buy) Regulations 1993 which modify Part V of the Housing Act 1985 (the right to buy) for cases in England 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.

amendments relate to the calculation of the cost floor which limits the amount of discount a tenant can receive when exercising the right to buy. Previously the only costs included in the calculation of the cost floor were the costs of acquisition or construction of the dwelling house and the costs of improvements, but under these amendments these costs have been extended to include costs for some works of repair and maintenance. Where the dwelling-house had no value on a transfer to the landlord requiring the approval of the Secretary of State, the costs have been further extended to include the costs of certain communal facilities, administrative costs not exceeding £2,000 and professional and consultancy fees.