

**EXPLANATORY MEMORANDUM TO
THE HOUSING (RIGHT TO BUY) (MAXIMUM PERCENTAGE DISCOUNT)
(ENGLAND) ORDER 2014**

2014 No. 1915

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 A person exercising the right to buy a dwelling-house under Part V of the Housing Act 1985 (“the Act”) may be entitled to a discount equal to a percentage of the price before discount. Section 129 of the Act provides that the maximum percentage discount in respect of a house (as opposed to a flat) is 60 per cent. This Order increases the maximum percentage discount for houses to 70 per cent.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 A person exercising the right to buy under Part V of the Act may be entitled to a discount equal to a percentage of the price before discount under sections 129 to 131.

4.2 Section 129 sets out the percentage discount a person is entitled to which is dependent upon the period of time the person has been a social tenant (as set out in Schedule 4 of the Act). Section 129 provides that the maximum percentage discount is 60 per cent for houses and is 70 per cent for flats.

4.3 Section 129 provides that that the Secretary of State may by order prescribe a different maximum percentage discount which is greater than the amounts already provided for in the section. The order is subject to the affirmative resolution procedure and the consent of the Treasury is required.

5. **Territorial Extent and Application**

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 Kris Hopkins, Parliamentary Under Secretary of State (Housing) for the Department for Communities and Local Government, has made the following statement regarding Human Rights:

In my view the provisions of the Housing (Right to Buy) (Maximum Percentage Discount) Order 2014 are compatible with the Convention rights.

7. Policy background

7.1 This Order amends the maximum percentage discount limit for right to buy to increase the percentage for houses from 60 per cent to 70 per cent. This amendment will bring the maximum percentage discount limit for houses in line with the maximum percentage discount for flats.

7.2 The right to buy scheme was introduced in 1980 and gives qualifying social tenants the opportunity to buy their rented home at a discount. The scheme is open to secure tenants of local authorities and non-charitable housing associations. It is also open to those assured tenants of housing associations who have transferred with their homes from a local authority as part of a stock transfer – this is known as the preserved right to buy. To date, more than 1.9 million homes have been sold under the right to buy.

7.3 To qualify for the right to buy, a tenant must have spent at least 5 years as a public sector tenant. For houses, the discount rates are 35 per cent of the property's value plus 1 per cent for each year beyond the first 5 years of the qualifying period, up to the current maximum of 60 per cent. For flats, the discount starts at 50 per cent plus 2 per cent for each year beyond the first 5 years of the qualifying period up to a maximum of 70 per cent.

7.4 The maximum discount which a tenant can receive is limited by secondary legislation. The 2012 and 2013 Discount Orders introduced maximum national discounts of £75,000 and £100,000 (London only) respectively, replacing the previous lower regional discounts.

7.5 Subject to those maximum national discount limits, the provisions in this Order will enable social tenants who have accrued a qualifying period of 30 years or more to receive a greater maximum percentage discount than they are currently entitled to. Increasing the maximum percentage discount from 60 to 70 per cent will ensure that tenants living in houses will now be able to accrue the same level of maximum percentage discount as available to those living in flats.

7.6 In addition to this Order, the Government is also increasing the maximum cash cap by the Consumer Price Index on an annual basis. This is being done through the Housing (Right to Buy)(Limit on Discount)(England) Order 2014 which will, for 2014-15, increase the cash cap to £102,700 for

properties situated within the 33 London authorities; and to £77,000 for properties situated in the rest of England. This replaces the current maximum discounts of £100,000 of £75,000 and will be updated annually. The terms of the right to buy scheme are otherwise unchanged.

8. Consultation outcome

8.1 The Department consulted in December 2011 to January 2012 regarding the increase of the maximum right to buy discount. The Right to Buy consultation and the Government's response can be accessed here: <https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2>

8.2 The Government has sought informal views on this change from a targeted group including the Council of Mortgage Lenders, Local Government Association, Building Societies Association and National Housing Federation.

8.3 It was considered that a further formal consultation was not needed because the relevant considerations concerning any increase in the maximum discount have not changed substantially since the consultation in January 2012.

9. Guidance

9.1 Housing Authorities and Registered Providers will be notified when the Order is laid and when the Order has come into force. These authorities have a statutory duty under sections 121A and 121B of the Act to advise their tenants of changes to the right to buy discount. The Department for Communities and Local Government announced the proposed changes in January 2014 and has since written to social landlords to advise on the proposed timetable for implementing the changes to allow landlords to take account of, and plan for, the impact of these changes. The proposed changes were also publicised through the Department's direct marketing campaign and on the Directgov website.

9.2 The Department will issue further information and guidance for tenants and social landlords when the Order is laid which will include factual material to address common queries in particular on the application of the transitional arrangements.

10. Impact

10.1 There is no impact on charities or voluntary bodies. The Impact Assessment which accompanied the original consultation paper (<https://www.gov.uk/government/consultations/reinvigorating-right-to-buy--2>) identified three possible areas of impact on housing associations that sell properties under the Preserved Right to Buy – i) cost of one for one replacement, ii) cost of administering sales, and iii) possible impact upon the business due to loss of assets. Our analysis at the time, drawing on responses to the consultation, indicated that these impacts would be minimal. We do not believe that this change will alter our original assessment.

10.2 The impact on the public sector is that social landlords may have additional administrative costs where they need to issue revised right to buy offer notices so that tenants get the discount they are entitled to. The Government has set flat allowances for London and the rest of England which compensate social landlords for administering right to buy applications.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The increase in the right to buy discount will mean that the discounts continue to remain effective for eligible social tenants, enabling more to take up their right to buy their home if they wish to do so. The extent to which right to buy is taken up depends on a large number of mainly external factors such as the general economic climate. The Department for Communities and Local Government will therefore continue to collect and publish figures quarterly on the numbers of right to buy sales. There will be a continuous ongoing review to assess the impact of this Order.

13. Contact

Relwyn Reffell at the Department for Communities and Local Government (tel: 0303 444 1249 or email: relwyn.reffell@communities.gsi.gov.uk) can answer any queries regarding the instrument.