



# Housing and Planning Act 1986

## 1986 CHAPTER 63

### PART I

#### HOUSING

##### *The right to buy*

#### **1 Exception to the right to buy with respect to dwelling-houses for persons of pensionable age**

In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy: certain dwelling-houses for persons of pensionable age), there shall be substituted for paragraph 11—

- “11 (1) The right to buy does not arise if the dwelling-house—
- (a) is particularly suitable for occupation by persons of pensionable age, having regard—
    - (i) to its location, and
    - (ii) to its size, design, heating system and other major features so far as those have been provided by the landlord, a predecessor of the tenant or a person qualified to succeed the tenant by virtue of Part IV of the Housing Act 1985,
  - (b) was let to the tenant or a predecessor in title of his for occupation by a person of pensionable age or a physically disabled person (whether the tenant or predecessor or another person).
- (2) In determining whether a dwelling is particularly suitable, regard shall be had as to whether the dwelling—
- (a) is easily accessible on foot;
  - (b) is on one level;
  - (c) being a flat located above ground floor, access by lift is available;
  - (d) has no more than two bedrooms ;
  - (e) has a heating system serving the living room and at least one bedroom.”.

**2 Discount on right to buy and similar sales**

- (1) In section 129 of the Housing Act 1985 (discount on exercise of right to buy), for subsections (1) and (2) substitute—

“(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.”.

(2) The amendment made by subsection (1) does not apply where—

- (a) the tenant's notice claiming to exercise the right to buy or, as the case may be, to acquire an additional share under a shared ownership lease was served before the commencement of that subsection, and
- (b) the landlord has before commencement served its notice as to the terms of exercise of that right, that is, its notice under section 125 of, or paragraph 1(3) of Schedule 8 to, the Housing Act 1985,

but without prejudice to the tenant's right to withdraw the notice served before commencement and serve a new notice.

(3) In the following provisions (which in the case of disposals at a discount require a covenant for repayment of a proportion of the discount if the dwelling-house is disposed of within five years)—

- section 35(2) of the Housing Act 1985 (voluntary disposals by local authorities),
- section 155(2) of that Act (disposals in pursuance of the right to buy),

section 155(3) of that Act (disposals in pursuance of the right to be granted a shared ownership lease), and

paragraph 1(2) of Schedule 2 to the Housing Associations Act 1985 (voluntary disposals by registered housing associations),

for " five years " substitute " three years " and for " 20 per cent." substitute " one-third ".

- (4) A conveyance or lease containing the covenant required by any of the provisions mentioned in subsection (3) which was executed before the amendments made by that subsection came into force shall, provided no amount was then or had previously been payable under the covenant, have effect with such modifications as may be necessary to bring it into conformity with the amendments.

### **3 Discount on exercise of right to purchase in Scotland**

- (1) In section 1 (secure tenant's right to purchase) of the Tenants' Rights, Etc. (Scotland) Act 1980, in subsection (5), after " (b) " insert—

“subject to an order under subsection (5B) below,”.

- (2) After subsection (5A) of the said section 1 insert—

“(5B) 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 (5)(b), as may be specified in the order.

- (5C) 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, including such amendments to the provisions of section 9A (application of Part I when dwelling-house is repurchased as defective) below, 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.”.

### **4 Service charges and other contributions payable after exercise of right to buy**

- (1) In section 125 of the Housing Act 1985 (landlord's notice of purchase price and other matters), for subsection (4) (notice to include estimate of amount of service charges) substitute—

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

- (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).”.

(2) After that section insert—

**“125A Estimates and information about service charges.**

- (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
  - (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), and
    - section 450A and the regulations made under that section (right to a loan in respect of certain service charges).
- (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 tenant.

**125B Estimates and information about improvement contributions.**

- (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.

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

- (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.”.
- (3) In section 127 of the Housing Act 1985 (valuation of dwelling-house for purposes of right to buy) in subsection (1) (basis of valuation), after paragraph (b) insert—
  - “, 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.”.
- (4) In Part III of Schedule 6 to the Housing Act 1985 (terms of lease granted in pursuance of right to buy), after paragraph 16 insert—

#### *“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 tile 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).
- 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 the 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; 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 (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.

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- (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 ; 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.
- 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 tenant 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—
- (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.”.
- (5) For paragraph 18 of Schedule 6 to the Housing Act 1985 (avoidance of certain provisions relating to service charges) substitute—
- “18 Where the 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,

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- &c.), 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).”.
- (6) The amendments in this section do not apply where—
- (a) the tenant's notice claiming to exercise the right to buy was served before the commencement of this section, and
  - (b) the landlord has before commencement served his notice under section 125 of the Housing Act 1985 (notice of terms of exercise of right);
- but without prejudice to the tenant's right to withdraw the notice served before commencement and serve a new notice.

## 5 Loans in respect of service charges

In Part XIV of the Housing Act 1985 (loans for acquisition or improvement of housing), after section 450 insert—

### *“Loans in respect of service charges*

#### **450A Right to a loan in certain cases after exercise of right to buy.**

- (1) The Secretary of State may by regulations provide that where—
- (a) a lease of a flat has been granted in pursuance of Part V (the right to buy), and
  - (b) the landlord is the housing authority who granted the lease or another housing authority,
- the tenant has, in such circumstances as may be prescribed, a right to a loan in respect of service charges to which this section applies.
- (2) This section applies to service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land) which are payable in the period beginning with the grant of the lease and ending with the tenth anniversary of the grant or, where the lease provides for service charges to be payable by reference to a specified annual period, with the end of the tenth such period beginning after the grant of the lease.
- (3) The regulations may provide that the right—
- (a) arises only in respect of so much of a service charge as exceeds a minimum qualifying amount and does not exceed a maximum qualifying amount, and
  - (b) does not arise unless the amount thus qualifying for a loan itself exceeds a minimum amount,
- the amounts being either prescribed or ascertained in a prescribed manner.
- (4) The regulations shall provide that the right is—



- (a) where the landlord is a housing association, a right to an advance from the Housing Corporation, and
  - (b) in any other case, a right to leave the whole or part of the service charge outstanding.
- (5) The regulations may, as regards the procedure for exercising the right, provide—
- (a) that a demand for service charges in respect of repairs shall inform the tenant whether, in the landlord's opinion, he is entitled to a loan and, if he is, what he must do to claim it;
  - (b) that the right must be claimed within a prescribed period of the demand ; and
  - (c) that on the right being claimed the lender shall inform the tenant of the terms of the loan and of the prescribed period within which the tenant may accept the offer.
- (6) In this section—
- " housing authority" includes any housing association within section 80 (the landlord condition for secure tenancies); and
  - " repairs " includes works for making good a structural defect.

#### **450B Power to make loans in other cases.**

- (1) The Secretary of State may by regulations provide that where—
- (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority, and
  - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land),
- the landlord or, where the landlord is a housing association, the Housing Corporation may, in such circumstances as may be prescribed, make a loan to the tenant in respect of the service charges.
- (2) The regulations shall provide that the power is—
- (a) where the landlord is a housing association, a power of the Housing Corporation to make an advance, and
  - (b) in any other case, a power of the landlord to leave the whole or part of the service charge outstanding.
- (3) Where the tenant is entitled to a loan in pursuance of regulations under section 450A, the power conferred by regulations under this section may be exercised in respect of any part of the service charge which does not qualify for a loan under that section.
- (4) In this section—
- "housing authority" includes any housing association within section 80 (the landlord condition for secure tenancies); and
  - "repairs" includes works for making good a structural defect.
- (5) This section does not affect any other power of the landlord, or the Housing Corporation, to make loans.

**450C Supplementary provisions as to regulations under s. 450A or 450B.**

- (1) This section applies to regulations under section 450A or 450B (regulations conferring right to loan, or power to make loan, in respect of service charges).
- (2) The regulations may provide that the right or, as the case may be, the power does not arise in the case of any prescribed description of landlord.
- (3) The regulations shall provide that the loan—
  - (a) in the case of a loan made in pursuance of regulations under section 450A (the right to a loan), shall be on such terms as may be prescribed, and
  - (b) in the case of a loan made by virtue of regulations under section 450B (power to make loan), shall be on such terms as the lender may determine subject to any provision made by the regulations ;
 and shall, in either case, be secured by a mortgage of the flat in question, but may be made whether or not the flat is adequate security for the loan.
- (4) The regulations may—
  - (a) as regards the rate of interest payable on the loan, either prescribe the rate or provide that the rate shall be such reasonable rate as may be determined by the lender or, where the lender is a local authority, provide that Schedule 16 applies (local authority mortgage interest rates);
  - (b) as regards administrative expenses of the lender in connection with a loan, provide that the lender may charge such expenses to the borrower, to the extent that they do not exceed such amount as may be prescribed, and that the expenses so charged may, at the option of the borrower in the case of a loan under section 450A and at the option of the lender in the case of a loan under section 450B, be added to the amount of the loan.
- (5) The regulations may apply whenever the lease in question was granted or assigned and whenever the service charge in question became payable.
- (6) The regulations—
  - (a) may make different provision for different cases or descriptions of case, including different provision for different areas ;
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers 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.”.

*Other provisions with respect to public sector housing***6 Consultation before disposal to private sector landlord**

- (1) In Part IV of the Housing Act 1985 (secure tenancies and rights of secure tenants), after section 106 insert—

### **“106A Consultation before disposal to private sector landlord.**

- (1) The provisions of Schedule 3A have effect with respect to the duties of—
  - (a) a local authority proposing to dispose of dwelling-houses subject to secure tenancies, and
  - (b) the Secretary of State in considering whether to give his consent to such a disposal,to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants.
- (2) In relation to a disposal to which that Schedule applies, the provisions of that Schedule apply in place of the provisions of section 105 (consultation on matters of housing management).”.
- (2) After Schedule 3 to the Housing Act 1985 insert as Schedule 3A the Schedule set out in Schedule 1 to this Act (consultation before disposal to private sector landlord).
- (3) The amendments made by this section apply to disposals after the commencement of this section.

## **7 Certificate of fair rent with a view to disposal by public sector body**

- (1) In section 69 of the Rent Act 1977 (certificates of fair rent), after subsection (1) insert—
  - “(1A) A public sector body to which this subsection applies may, with a view to the disposal of an interest in a dwelling-house, apply to the rent officer for a certificate specifying a rent which in the opinion of the rent officer would be a fair rent under a regulated tenancy of the dwelling-house—
    - (a) in its present condition, or
    - (b) after the completion of works of improvement, conversion or repair.
  - (1B) In subsection (1A) " public sector body " means an authority or body within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies) other than the Housing Corporation, a housing association or a housing trust which is a charity.  
  
In this subsection " housing association ", " housing trust " and " charity " have the same meaning as in Part IV of the Housing Act 1985.
  - (1C) A certificate under subsection (1) or (1A) shall be known as a certificate of fair rent.”.
- (2) In section 69(1) of the Rent Act 1977—
  - (a) after " improvements ", in both places where it occurs, insert " or repairs ", and
  - (b) at the end, add—

“No application shall be made under this subsection if an application could be made under subsection (1A) below.”.

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

- (1) In Part V of the Housing Act 1985 (the right to buy), after section 171 insert—

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

**171A Cases in which right to buy is preserved.**

- (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 the following provisions of 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.

**171B Extent of preserved right: qualifying persons and dwelling-houses.**

- (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, a person who, on the death of the former secure tenant, becomes by virtue of paragraph 2 or 3 of Part I of Schedule 1 to the Rent Act 1977 (surviving spouse or member of deceased tenant's family) the statutory tenant of a dwelling-house in relation to which the former secure tenant had the preserved right to buy immediately before his death ;
  - (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;
  - (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in subsection (4)(a) 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 this purpose " connected company " means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

#### **171C Modifications of this Part in relation to preserved right.**

- (1) Where the right to buy is preserved, the provisions of this Part have effect subject to such exceptions, adaptations and other modifications as may be prescribed by regulations made by the Secretary of State.
- (2) The regulations may in particular provide—
  - (a) that paragraphs 5 to 11 of Schedule 5 (certain exceptions to the right to buy) do not apply;
  - (b) that the right to a mortgage is exercisable against the former landlord or, if the former landlord was a housing association, against the Housing Corporation;

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- (c) that the provisions of this Part relating to the right to be granted a shared ownership lease do not apply; and
  - (d) that the landlord is not required to but may include a covenant for the repayment of discount, provided its terms are no more onerous than those of the covenant provided for in section 155.
- (3) The prescribed exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of this Part as they apply in cases where the right to buy is preserved; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of this Part as they so apply.
- (4) The regulations—
  - (a) may make different provision for different cases or descriptions of case, including different provision for different areas,
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers 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.

**171D Subsequent dealings: disposal of landlord's interest in qualifying dwelling-house.**

- (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.

**171E Subsequent dealings: termination of landlord's interest in qualifying dwelling-house.**

- (1) On the termination of the landlord's interest in the qualifying dwelling-house—

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*Status: This is the original version (as it was originally enacted).*

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- (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.

#### **171F Subsequent dealings: transfer of qualifying person to alternative accommodation.**

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 (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).

#### **171G Land registration and related matters.**

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

**171H Disposal after notice claiming to exercise right to buy, etc.**

- (1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy or the right to a mortgage 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
  - (b) the right to a mortgage becomes exercisable against the Housing Corporation rather than the former landlord, or vice versa, 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.”.

- (2) After Schedule 9 to the Housing Act 1985 insert as Schedule 9A the Schedule set out in Schedule 2 to this Act (land registration and related matters where right to buy preserved).
- (3) The amendments made by this section apply to qualifying disposals on or after the commencement of this section.

**9 Redevelopment of dwelling-house subject to secure tenancy**

- (1) In Schedule 2 to the Housing Act 1985 (grounds for possession of dwelling-houses let under secure tenancies), in Part II (grounds on which court may order possession if suitable alternative accommodation is available), after ground 10 (redevelopment by landlord) insert—

*“Ground 10A*

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Housing Corporation in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

*or*



Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.”.

(2) At the end of that Schedule insert—

## “PART V

### APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

- 1 (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and redevelopment of an area of land consisting of or including the whole or part of one or more dwelling-houses.
- (2) For this purpose—
  - (a) "disposal" means a disposal of any interest in the land (including the grant of an option), and
  - (b) "redevelopment" means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land ; and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.
- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
  - (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
  - (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
  - (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of me notice), make representations to the landlord about the proposal.
- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
- (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
  - (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,

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*Status: This is the original version (as it was originally enacted).*

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- (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and
  - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—
- (a) part only of one or more dwelling-houses, or
  - (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
- unless he is satisfied that the inclusion is justified in the circumstances.
- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
    - (a) add, remove or vary conditions to which the approval is subject; or
    - (b) extend or restrict the period after which the approval is to expire.
  - (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.
- 6 Where the landlord is a registered housing association, the Housing Corporation, and not the Secretary of State, has the functions conferred by this Part of this Schedule.
- 7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.”.
- (3) Section 29 of the Land Compensation Act 1973 (home loss payments) is amended as follows—
- (a) in subsection (1) (circumstances in which, and persons by whom, payment to be made) after paragraph (d) insert—
    - “(e) the making of an order for possession on ground 10 or 10A in Part II of Schedule 2 to the Housing Act 1985 ;”;
  - (b) in the same subsection, after paragraph (iv) insert—
    - “(v) where paragraph (e) applies, the landlord.”;
  - (c) in subsection (4) (interests and rights to which the section applies), after paragraph (d) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(e) a right to occupy the dwelling under a licence to which Part IV of the Housing Act 1985 (secure tenancies) applies.”.

(4) In section 32 of the Land Compensation Act 1973 (supplementary provisions about home loss payments), after subsection (7A) insert—

“(7B) Where a landlord obtains possession by agreement of a dwelling subject to a secure tenancy within the meaning of Part IV of the Housing Act 1985 and—

- (a) notice of proceedings for possession of the dwelling has been served, or might have been served, specifying ground 10 or 10A in Part II of Schedule 2 to that Act, or
- (b) the landlord has applied, or could apply, to the Secretary of State or the Housing Corporation for approval for the purposes of ground 10A of a redevelopment scheme including the dwelling, or part of it,

the landlord may make to the person giving up possession a payment corresponding to any home loss payment which they would be required to make to him if an order for possession had been made on either of those grounds.”.

## 10 Management agreements

For section 27 of the Housing Act 1985 (agreements with housing co-operatives), and the heading preceding it, substitute—

*“Management agreements.*

### 27 Management agreements

- (1) A local housing authority may, with the approval of the Secretary of State, agree that another person shall exercise as agent of the authority in relation to—
  - (a) such of the authority's houses as are specified in the agreement, and
  - (b) any other land so specified which is held for a related purpose,such of the authority's management functions as are so specified.
- (2) In this Act " management agreement" and " manager ", in relation to such an agreement, mean an agreement under this section and the person with whom the agreement is made.
- (3) A management agreement shall set out the terms on which the authority's functions are exercisable by the manager.
- (4) A management agreement may, where the manager is a body or association, provide that the manager's functions under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (5) The Secretary of State's approval (which may be given unconditionally or subject to conditions) is required both for the terms of the agreement and the identity of the manager.
- (6) References in this section to the management functions of a local housing authority in relation to houses or land include—
  - (a) functions conferred by any statutory provision, and

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- (b) the powers and duties of the authority as holder of an estate or interest in the houses or land in question.

**27A Consultation required before management agreement can be approved.**

- (1) A local housing authority who propose to enter into a management agreement shall serve notice in writing on the tenant of each house to which the proposal relates informing him of—
  - (a) such details of their proposal as the authority consider appropriate, but including the identity of the person who is to be the manager under the agreement,
  - (b) the likely consequences of the agreement for the tenant, and
  - (c) the effect of the provisions of this section,and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (2) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
  - (a) of any significant changes in their proposal, and
  - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,and informing him of the effect of subsection (5) (approval to be withheld if majority of tenants are opposed).
- (3) The Secretary of State shall not entertain an application for approval of a management agreement unless the local housing authority certify that the requirements of subsections (1) and (2) as to consultation have been complied with; and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with those subsections.
- (4) The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.
- (5) The Secretary of State shall not give his approval if it appears to him that a majority of the tenants of the houses to which the agreement relates do not wish the proposal to proceed; but this does not affect his general discretion to withhold his approval on grounds relating to whether the proposal has the support of the tenants or on any other ground.
- (6) In making his decision the Secretary of State may have regard to any information available to him ; and the local housing authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.
- (7) A management agreement made with the approval of the Secretary of State is not invalidated by a failure on his part or that of the local housing authority to comply with the requirements of this section.

- (8) In the case of secure tenants the provisions of this section apply in place of the provisions of section 105 (consultation on matters of housing management) in relation to the making of a management agreement.

#### **27B Agreements with housing cooperatives under superseded provisions.**

- (1) In this section " housing co-operative " means a society, company or body of trustees with which a housing co-operative agreement was made, that is to say
- (a) an agreement to which paragraph 9 of Schedule 1 to the Housing Rents and Subsidies Act 1975 or Schedule 20 to the Housing Act 1980 applied or,
  - (b) an agreement made under section 27 above before the commencement of section 10 of the Housing and Planning Act 1986 (which substituted the present section 27).
- (2) A housing co-operative agreement made with a local housing authority which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 has effect as if made under the present section 27, so that, in particular, any terms of the agreement providing for the letting of land to the housing co-operative no longer have effect except in relation to lettings made before commencement.
- (3) A housing co-operative agreement made with a new town corporation or the Development Board for Rural Wales which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 remains in force notwithstanding that the present section 27 does not apply to such authorities.
- (4) In this Act (except in section 27) the expressions " management agreement " and " manager ", in relation to such an agreement, include a housing co-operative agreement to which subsection (2) or (3) applies and the housing co-operative with whom the agreement is made.”.

### **11 Proposals for co-operative management or ownership**

In Part II of the Housing Act 1985, after the provisions inserted by section 10 above insert—

*“Proposals for co-operative management or ownership*

#### **27C Proposals for co-operative management or ownership.**

- (1) If a qualifying tenants' association serves written notice on the local housing authority—
- (a) proposing that the authority should enter into a management agreement with the association with respect to houses and other land specified in the notice, or
  - (b) proposing that the association should acquire from the authority houses and other land specified in the notice at a specified price,
- the authority shall take the proposal into consideration.

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- (2) If the authority have not, by the end of the period of six months after service of the notice, accepted the proposal in principle, they shall give the association a written statement of the reasons why they have not done so.
- (3) A tenants' association is a qualifying association for the purposes of this section if—
- (a) it is a housing association of which at least half the members are tenants of houses specified in the notice,
  - (b) it has at least 50 such members or is registered under the Industrial and Provident Societies Act 1965, and
  - (c) at least half the tenants of the specified houses are members of the association.”.

### *Assured tenancies*

## **12 Extension of assured tenancies scheme to cases where works have been carried out**

- (1) In section 56(1) of the Housing Act 1980 (tenancies which are assured tenancies), for paragraphs (a) and (b) substitute—
- “(a) the conditions described in section 56A or 56B are satisfied,
  - (b) the interest of the landlord has, since the creation of the tenancy, belonged to an approved body, and
  - (c) the tenancy would, when created, have been a protected tenancy or, as the case may be, a housing association tenancy but for this section.”.
- (2) After that section insert—

### **“56A Conditions for assured tenancy: newly erected buildings.**

The first set of conditions referred to in section 56(1)(a) above is that—

- (a) the dwelling-house is, or forms part of, a building which was erected (and on which construction work first began) on or after 8th August 1980, and
- (b) before the tenant first occupied the dwelling house under the tenancy, no part of it had been occupied by any person as his residence except under an assured tenancy.

### **56B Conditions for assured tenancy: buildings to which works have been carried out.**

- (1) The second set of conditions referred to in section 56(1)(a) above is that—
- (a) qualifying works have been carried out (whether before or after the commencement of this section),
  - (b) the dwelling-house is (or was) fit for human habitation at the relevant date, and
  - (c) since the qualifying works were carried out no part of the dwelling-house has been occupied by any person as his residence except under an assured tenancy,

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*Status: This is the original version (as it was originally enacted).*

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and, in the case of the first relevant tenancy, that the person (or persons) to whom the tenancy is granted is not (or do not include) a person who was a secure occupier of the dwelling-house before the works were carried out.

- (2) Qualifying works means works involving expenditure attributable to the dwelling-house of not less than the prescribed amount which are carried out within the period of two years preceding the relevant date at a time when the premises constituting the dwelling-house at the relevant date either were not a dwelling-house or no part of them was occupied by a person as his residence.
- (3) Expenditure is attributable to a dwelling-house if it is incurred on works carried out to the premises constituting the dwelling-house at the relevant date or to other land or buildings let with the dwelling-house under the first relevant tenancy.
- (4) Where the dwelling-house is a flat, there is also attributable to the dwelling-house a proportion of any expenditure incurred on works carried out to the structure, exterior or common parts of, or to common facilities in, the building of which the dwelling-house forms part.
- (5) The proportion so attributable shall be taken to be the amount produced by dividing the total amount of such expenditure by the number of units of occupation in the building at the relevant date.
- (6) In this section—
  - 'flat' means a separate set of premises, whether or not on the same floor, which—
    - (a) forms part of a building, and
    - (b) is divided horizontally from some other part of the building;
  - 'the first relevant tenancy' means the first tenancy after the carrying out of the qualifying works under which a person is entitled to occupy the dwelling-house as his residence;
  - 'the prescribed amount' means the amount which at the relevant date is prescribed for the purposes of this section by order of the Secretary of State;
  - 'the relevant date' means the date of grant of the first relevant tenancy;
  - 'secure occupier' means a person who, whether alone or jointly with others, occupied or was entitled to occupy the dwelling-house as—
    - (a) a protected or statutory tenant within the meaning of the Rent Act 1977,
    - (b) a secure tenant within the meaning of Part IV of the Housing Act 1985, or
    - (c) a protected occupier or statutory tenant within the meaning of the Rent (Agriculture) Act 1976.

#### **56C Certification of fitness for purposes of s. 56B.**

- (1) An approved body having an interest in a dwelling-house which it proposes to let on an assured tenancy may—

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*Status: This is the original version (as it was originally enacted).*

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- (a) apply in writing to the local housing authority for a certificate that the dwelling-house is fit for human habitation, or
- (b) submit to the local housing authority a list of works which it proposes to carry out to the dwelling-house with a request in writing for the authority's opinion whether the dwelling-house would, after the execution of the works, be fit for human habitation;

and the authority shall as soon as may be after receiving the application or request, and upon payment of such reasonable fee as they may determine, take the matter into consideration.

- (2) If the authority are of opinion that the dwelling-house is fit for human habitation, they shall give the approved body a certificate to that effect.
- (3) If the authority are of opinion that the dwelling-house will be fit for human habitation after the execution of the proposed works, they shall inform the approved body that they are of that opinion.
- (4) In any other case, the authority shall give the approved body a list of the works which in their opinion are required to make the dwelling-house fit for human habitation.
- (5) Where the authority have responded in accordance with subsection (3) or (4) and the works in question have been executed to their satisfaction, they shall, if the approved body applies in writing, and upon payment of such reasonable fee as the authority may determine, give the body a certificate that the dwelling-house is fit for human habitation.
- (6) For the purpose of determining whether the condition in section 56B(1)(b) was satisfied in any case (fitness of dwelling-house on relevant date), but not for any other purpose, a certificate given under this section is conclusive evidence that the dwelling-house was fit for human habitation on the date on which the certificate was given.
- (7) In this section ' the local housing authority' has the same meaning as in the Housing Act 1985.

#### **56D Fitness for human habitation.**

In determining for any of the purposes of section 56B or 56C whether a dwelling-house is, or would be, fit for human habitation, regard shall be had to its condition in respect of the following matters—

- repair,
- stability,
- freedom from damp,
- internal arrangement,
- natural lighting,
- ventilation,
- water supply,
- drainage and sanitary conveniences,
- facilities for the preparation and cooking of food and the disposal of waste water;



and the dwelling-house shall be deemed to be unfit only if it is, or would be, so far defective in one or more of those matters as to be not reasonably suitable for occupation in that condition.”.

- (3) In section 57 of the Housing Act 1980 (effect of interest of landlord ceasing to belong to approved body), in subsections (1) and (2) for " section 56(3)(a) " substitute " section 56(1)(b) ".

### **13 Other amendments relating to assured tenancies**

- (1) In section 19(5) of the Rent Act 1977 (contracts which are not restricted contracts), after paragraph (e) insert—

“, or

(f) it creates an assured tenancy within the meaning of section 56 of the Housing Act 1980 ;”.

- (2) In Schedule 15 to the Rent Act 1977 (grounds for possession), in Part IV (definition of suitable alternative accommodation), renumber paragraph 4 as sub-paragraph (1) of that paragraph and after it insert—

“(2) For the purposes of sub-paragraph (1)(b) the terms of a tenancy shall not be treated as affording the required security by reason only of the fact that the tenancy is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (3) In Schedule 4 to the Rent (Agriculture) Act 1976 (grounds for possession), in Case I (alternative accommodation not provided or arranged by housing authority), renumber paragraph 2 as sub-paragraph (1) of that paragraph and after it insert—

“(2) For the purposes of sub-paragraph (1)(b) the terms of a tenancy shall not be treated as affording the required security by reason only of the fact that the tenancy is an assured tenancy within the meaning of section 56 of the Housing Act 1980.”.

- (4) In section 37 of the Landlord and Tenant Act 1954 (compensation where an order for new tenancy precluded on certain grounds), in subsection (2) (computation of compensation) as set out in paragraph 7 of Schedule 5 to the Housing Act 1980 (application of 1954 Act to assured tenancies), after " be " insert " the product of the appropriate multiplier and ".

The above amendment applies notwithstanding that the application to the court under section 24 of the Landlord and Tenant Act 1954 was made before the commencement of this section, unless the application has been finally disposed of within the meaning of section 64(2) of that Act before commencement. "

- (5) In section 58 of the Housing Act 1980 (application of Landlord and Tenant Act 1954 to assured tenancies), at the end add—

“(3) In sections 56 to 58 of this Act ' tenancy ' has the same meaning as in the Landlord and Tenant Act 1954 and references to the granting of a tenancy shall be construed accordingly.”.

- (7) In Schedule 5 to the Housing Act 1980 (application of Landlord and Tenant Act 1954 to assured tenancies), for paragraph 8 (modification of provisions relating to contracting out) substitute—

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*Status: This is the original version (as it was originally enacted).*

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- “8 Section 38 applies as if the following provisions were omitted—
- (a) in subsection (1), the words " (except as provided by subsection (4) of this section) " ;
  - (b) in subsection (2), the words from the beginning to the end of paragraph (b);
  - (c) subsections (3) and (4).”

The above amendment, so far as it relates to section 38(4) of the Landlord and Tenant Act 1954, does not apply to an agreement both approved by the court under that provision and entered into before the commencement of this section.

### *Miscellaneous*

## **14 Housing the homeless**

- (1) The Housing Act 1985 shall be amended in accordance with the following provisions.
- (2) In section 58 (definition of homelessness) after subsection (2) there shall be inserted the following subsections—

“(2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.

(2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.”.

- (3) For section 69(1) (provisions supplementary to ss. 63, 65 and 68) there shall be substituted the following subsection—

“(1) A local housing authority may perform any duty under section 65 or 68 (duties to persons found to be homeless) to secure that accommodation becomes available for the occupation of a person—

- (a) by making available suitable accommodation held by them under Part II (provision of housing) or any enactment, or
- (b) by securing that he obtains suitable accommodation from some other person, or
- (c) by giving him such advice and assistance as will secure that he obtains suitable accommodation from some other person,

and in determining whether accommodation is suitable they shall have regard to Part IX (slum clearance), X (overcrowding) and XI (houses in multiple occupation) of this Act.”.

## **15 Grants for improvement or repair of common parts**

Part XV of the Housing Act 1985 (grants for works of improvement, repair and conversion) is amended in accordance with Schedule 3 so as to provide for a new form of grant towards the costs of works required for the improvement or repair of the common parts of a building containing one or more flats.

## 16 **Housing management; financial assistance, etc.**

In Part XIII of the Housing Act 1985 (general financial provisions), after section 429 insert—

### **“429A Housing management: financial assistance etc.**

- (1) The Secretary of State may, with the consent of the Treasury, give financial assistance—
  - (a) to persons managing public sector or former public sector housing, and
  - (b) to persons seeking to facilitate or encourage improvements in, or providing services in connection with, the management of such housing;and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.
- (2) For this purpose—
  - (a) " public sector housing" means housing accommodation in which an authority or body within section 80 (the landlord condition for secure tenancies) has an interest by virtue of which it receives a rack-rent, or would do so if the premises were let at a rack-rent; and
  - (b) " former public sector housing" means housing accommodation in which such an authority, or a predecessor of such an authority or an authority abolished by the Local Government Act 1985 formerly had such an interest.
- (3) The Secretary of State may, with the consent of the Treasury, give financial assistance—
  - (a) to persons providing educational or training courses in housing management,
  - (b) to persons providing services for those providing such courses, and
  - (c) to persons providing financial or other assistance for those attending such courses ;and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.
- (4) Financial assistance given by the Secretary of State under subsection (1) or (3) may be given in any form, and may in particular be given by way of grants, loans or guarantees or by incurring expenditure for the benefit of the person assisted; but the Secretary of State shall not in giving such assistance purchase loan or share capital in a company.
- (5) Financial assistance may be given and other payments made on such terms as the Secretary of State, with the consent of the Treasury, considers appropriate; and the terms may, in particular, include provision as to the circumstances in which the assistance or other payment must be repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.
- (6) A person receiving financial assistance under this section shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.”.

## **17 Matters to be taken into account in determining fair rent**

- (1) Section 70 of the Rent Act 1977 (determination of fair rent) is amended as follows.
- (2) In subsection (1) (matters to be taken into account), omit the word " and " before paragraph (b) and after that paragraph insert—
  - “, and
  - (c) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”.
- (3) After subsection (4) insert—
 

“(4A) In this section " premium " has the same meaning as in Part IX of this Act, and " sum in the nature of a premium " means—

  - (a) any such loan as is mentioned in section 119 or 120 of this Act,
  - (b) any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and
  - (c) any such advance payment of rent as is mentioned in section 126 of this Act.”.
- (4) The above amendments apply to every decision made by a rent officer or rent assessment committee after the commencement of this section, notwithstanding that the application was made before commencement or, in the case of a decision of a rent assessment committee, that the rent officer's decision was made before commencement.

## **18 Further provisions with respect to shared ownership leases**

The provisions of Schedule 4 have effect to exclude certain shared ownership leases from the operation of the provisions of—

- (a) the Rent Act 1977 and the Rent (Agriculture) Act 1976, and
- (b) Part I of the Leasehold Reform Act 1967 (right of long leaseholder to enfranchisement or extension of lease).

## **19 Extension of permitted objects of registered housing associations**

In section 4 of the Housing Associations Act 1985 (eligibility for registration), in subsection (3) (permissible additional purposes or objects of association), after paragraph (d) insert—

- “(dd) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;”.

## **20 Disposal of dwellings in new towns**

- (1) Part III of the New Towns Act 1981 (transfer of new town housing to district councils), is amended as follows.
- (2) After section 57 insert—

**“57A Savings for other powers of disposal.**

The provisions of this Part as to the transfer of dwellings in a new town to a district council shall not be construed as restricting—

- (a) the power of the Commission under section 36 above,
- (b) the power of a development corporation under section 64 below, or
- (c) the power of the Development Board for Rural Wales under section 4 of the Development of Rural Wales Act 1976,

to dispose of such dwellings to any person.”.

- (3) The following provisions (which relate to the initiation of consultations with a view to the transfer of new town housing to a district council) are repealed—
  - section 43(3) and (4),
  - section 49(b) and (c).

**21 Effect of resolutions relating to housing action area or general improvement area**

- (1) In Part VIII of the Housing Act 1985 (area improvement) before section 260, under the heading "*Supplementary provisions* " insert—

**“259A Effect of resolutions relating to housing action area or general improvement area.**

- (1) A resolution of a local housing authority passed after the commencement of this section—
  - (a) declaring an area to be a housing action area, excluding land from a housing action area or declaring that an area shall cease to be a housing action area, or
  - (b) declaring an area to be a general improvement area, excluding land from a general improvement area or declaring that an area shall cease to be a general improvement area,has effect, subject to subsection (2), from the day on which the resolution is passed.
- (2) A resolution declaring an area to be a general improvement area may be expressed to have effect from a future date, not later than four weeks after the passing of the resolution, on which the whole or part of that area will cease to be, or be included in, a housing action area.

**259B Effect of certain resolutions passed before commencement of s.259A.**

- (1) Where before the commencement of section 259A a local housing authority passed a resolution of any of the descriptions mentioned in the section expressed to have effect from a date after that on which it was passed—
  - (a) anything done before the commencement of this section in reliance on the view that the resolution was invalid shall have effect as if the resolution had not been passed, but
  - (b) otherwise, the resolution shall be taken for all purposes, both before and after the commencement of this section, to have been validly

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passed and to have had effect from the date on which it was expressed to have had effect;

subject to the following provisions.

- (2) A person shall not be proceeded against in respect of anything done or omitted before the commencement of this section which would not have been an offence if the resolution had not been passed.
  - (3) Where the resolution declared a housing action area or general improvement area and, before the commencement of this section, the local housing authority passed a further resolution making the like declaration in relation to the whole or part of the area to which the first resolution then related—
    - (a) both resolutions are effective, notwithstanding that they relate in whole or in part to the same area;
    - (b) the area covered by both resolutions is a housing action area or general improvement area by virtue of the joint effect of the two resolutions, and in the case of a housing action area shall continue to be such an area (subject to the provisions of this Part) until the end of the period of five years beginning with the date on which the second resolution was passed ;
    - (c) it is immaterial whether steps taken before the commencement of this section were taken in reliance on the first resolution or the second, but steps taken in reliance on the first shall not be proceeded with to the extent that they have been superseded by, or are inconsistent with, steps taken in reliance on the second ; and
    - (d) the areas declared by the two resolutions may be treated as one for the purposes of section 245(3) or 259(3) (limit on aggregate expenditure qualifying for contributions by Secretary of State).
  - (4) The provisions of subsection (3) do not affect the powers of the Secretary of State under section 241(2) (a) and (b) (power to overrule declaration of housing action area or exclude land from area) and, so far as they relate to the duration of a housing action area, have effect subject to section 241(4) (effect of Secretary of State's decision in such a case).”.
- (2) In consequence of the above amendment, Part VIII of the Housing Act 1985 is further amended as follows—
- (a) in section 239(4) (duration of housing action area), omit " beginning with the date on which the resolution is passed " ;
  - (b) in section 240(1) (steps to be taken after declaration of housing action area) omit " passing a resolution " ;
  - (c) in section 242(2) (incorporation into housing action area of land comprised in general improvement area), for " the resolution is passed declaring such an area" substitute " the area is declared " ;
  - (d) in section 250(1) (exclusion of land from, or termination of, housing action area), omit " on the date on which the resolution is passed " ;
  - (e) in section 257 (duty to publish information) for " have declared " substitute " have passed a resolution declaring " and for " assistance available" substitute " assistance which is or will be available " ;
  - (f) in section 258(1)(6) (resolution terminating general improvement area), for " an area to be no longer " substitute " that an area shall cease to be " ;

- (g) in section 258(2) (effect of resolution excluding land from or terminating general improvement area) for " the date on which the resolution takes effect" substitute " the date on which the exclusion or cessation takes effect " and for " the exclusion or cessation" substitute " the resolution " .

## **22 Agreements with certain housing bodies exempt from Consumer Credit Act 1974**

- (1) Section 16 of the Consumer Credit Act 1974 (exempt agreements) is amended as follows.

- (2) In subsection (1) (which enables orders to be made exempting agreements with certain descriptions of creditor), after paragraph (f) insert—

“(ff) a body corporate named or specifically referred to in an order made under—

section 156(4), 444(1) or 447(2)(o) of the Housing Act 1985,  
section 2 of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 or section 31 of the Tenants' Rights, &c. (Scotland) Act 1980, or  
Article 154(1)(a) or 156AA of the Housing (Northern Ireland) Order 1981 or Article 10(6A) of the Housing (Northern Ireland) Order 1983 ; or”;

and in subsection (3) (requirements as to consultation), in paragraph (d) (consultation with responsible Minister), for " or (1) " substitute " , (f) or (f) " .

- (3) After subsection (6) insert—

“(6A) This Act does not regulate a consumer credit agreement where the creditor is a housing authority and the agreement is secured by a land mortgage of a dwelling.

(6B) In subsection (6A) " housing authority " means—

- (a) as regards England and Wales, an authority or body within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies), other than a housing association or a housing trust which is a charity;
- (b) as regards Scotland, a development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act 1968, the Scottish Special Housing Association or the Housing Corporation ;
- (c) as regards Northern Ireland, the Northern Ireland Housing Executive.”.

- (4) The above amendments apply to agreements made after the commencement of this section.

## **23 Determination of price for leasehold enfranchisement**

- (1) In section 9(1 A) of the Leasehold Reform Act 1967 (determination of price payable for enfranchisement of higher value houses), in paragraph (a) (assumption that vendor is selling subject to existing tenancy) after " no right to acquire the freehold " insert " or an extended lease and, where the tenancy has been extended under this Part of this Act, that the tenancy will terminate on the original term date. " .

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- (2) In section 23(5) of the Leasehold Reform Act 1967 (provisions as to tenancy granted in satisfaction of tenant's rights under Part I), in paragraph (b) (provisions which apply as if the tenancy were granted by way of extension) at the beginning insert " section 9(1) and (1A) above, ".
- (3) The above amendments do not apply—
  - (a) where the price for enfranchisement has been determined, by agreement or otherwise, before the commencement of this section ; or
  - (b) where the notice under section 8 of the Leasehold Reform Act 1967 (notice of desire to have the freehold) was given before the passing of this Act; or
  - (c) where notice under section 14 of that Act (notice of desire to have extended lease) was given before 5th March 1986.

## 24 **Minor and consequential amendments; repeals**

- (1) The enactments relating to housing are amended in accordance with Part I of Schedule 5 with respect to the following matters—
  - (a) the effect of a covenant for repayment of discount given on the disposal of a dwelling-house;
  - (b) the acquisition by an authority or body within section 80 of the Housing Act 1985 (the landlord condition for secure tenancies) of a dwelling-house subject to a statutory tenancy;
  - (c) the contents of a landlord's notice under section 125 of that Act (notice of terms of exercise of right to buy);
  - (d) the steps to be taken where there is a change of land lord in the course of exercise of the right to buy ;
  - (e) the deferment of completion in pursuance of the right to buy;
  - (f) the maximum penalty for voting in contravention of section 618(3) of the Housing Act 1985 (member of Common Council or committee voting on matter in which he is interested);
  - (g) the withholding of consent to the assignment by way of exchange of a secure tenancy of a dwelling-house managed by a certain description of housing association ;
  - (h) grants for affording tax relief to housing associations;
  - (i) the recovery of service charges in respect of the cost of grant-aided works;
  - (j) miscellaneous corrections.
- (2) Part II of Schedule 5 contains amendments consequential on the provisions of this Part.
- (3) The enactments specified in Part I of Schedule 12 are repealed to the extent specified.