



# Housing and Planning Act 1986

## 1986 CHAPTER 63

### PART I

#### HOUSING

##### *The right to buy*

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

- (1) In section 125 of the <sup>M1</sup>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.

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- (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 these 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.

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- (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 <sup>M2</sup>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 <sup>M3</sup>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 the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.
- (4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.
- (5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).
- “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

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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.

- (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

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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 <sup>M4</sup>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, &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).”.

<sup>F1</sup>(6) .....

**Textual Amendments**

**F1** S. 4(6) repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), Sch. 1 Pt. 9

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**Marginal Citations**

**M1** 1985 c. 68.

**M2** 1985 c. 68.

**M3** 1985 c. 68.

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