



# Housing Act 1988

## 1988 CHAPTER 50

### PART V

#### MISCELLANEOUS AND GENERAL

##### *Disposals of housing stock*

#### **132 Consents to disposals of housing stock and application of receipts.**

- (1) At the end of subsection (4) of section 34 of the <sup>M1</sup>Housing Act 1985 (consent to disposals of land held for the purposes of Part II—provision of housing accommodation) and at the end of subsection (4) of section 43 of that Act (consent for certain disposals of other houses) there shall be inserted the subsections set out in subsection (2) below.
- (2) The subsections referred to in subsection (1) above and subsection (3) below are as follows—
  - “(4A) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—
    - (a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as “the intending purchaser”) is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
    - (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
    - (c) the terms of the proposed disposal; and
    - (d) any other matters whatsoever which he considers relevant.

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(4B) Where the Secretary of State gives consent to a disposal by a local authority, he may give directions as to the purpose for which any capital money received by the authority in respect of the disposal is to be applied and, where any such directions are given, nothing in any enactment shall require his consent to be given for the application of the capital money concerned in accordance with the directions.”

(3) Section 13 of the <sup>M2</sup>Housing (Scotland) Act 1987 (power of Secretary of State to impose conditions in sale of local authority houses) shall be renumbered as subsection (1) of that section and after that subsection there shall be inserted as subsections (2) and (3) the subsections which are set out in subsection (2) above and there numbered (4A) and (4B).

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

(6) In section 208 of the Housing (Scotland) Act 1987 (application of receipts from disposal of certain land), in subsection (2) there shall be inserted at the end the words “or has made directions under section 13(3)”.

(7) In section 26 of the <sup>M3</sup>Local Government Act 1988 (provisions as to consents under section 25 for provision of financial assistance etc.), in subsection (5) (which excludes consent under various enactments where consent is given to a disposal of land under section 25) after the words “such a consent” there shall be inserted “then, if the consent given for the purposes of section 25 above so provides”.

(8) This section shall be deemed to have come into force on 9th June 1988.

<b>Textual Amendments</b>	
<b>F1</b>	Ss. 132(4)(5), 136 repealed by <a href="#">Local Government and Housing Act 1989 (c. 42, SIF 61)</a> ,s. 194(2), Sch. 12 Pt. I
<b>Marginal Citations</b>	
<b>M1</b>	1985 c. 68.
<b>M2</b>	1987 c. 26.
<b>M3</b>	1988 c. 9.

**133 Consent required for certain subsequent disposals.**

(1) Where consent is required for a disposal (in this section referred to as “the original disposal”) by virtue of section 32 or section 43 of the Housing Act 1985 and that consent does not provide otherwise, the person who acquires the land or house on the disposal shall not dispose of it except with the consent of the Secretary of State; but nothing in this section shall apply in relation to an exempt disposal as defined in section 81(8) above.

[<sup>F2</sup>(1A) This section does not apply if the original disposal was made before the date on which this section comes into force.]

(2) Where an estate or interest of the person who acquired the land or house on the original disposal has been mortgaged or charged, the prohibition in subsection (1) above applies also to a disposal by the mortgagee or chargee in exercise of a power

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of sale or leasing, whether or not the disposal is in the name of the person who so acquired the land or house; and in any case where—

- (a) by operation of law or by virtue of an order of a court, the land or house which has been acquired passes or is transferred from the person who so acquired it to another person, and
- (b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the land or house passes or is transferred were the person who acquired it on the original disposal.

[<sup>F3</sup>(2A) Consent required for the purposes of this section may be given either generally to all persons who may require such consent or to any particular person or description of person who may require such consent.]

(3) Where subsection (1) above applies—

- (a) if section 34 of the <sup>M4</sup>Housing Act 1985 applies to the consent given to the original disposal, subsections (2)(b) and (3) to (4A) of that section shall also apply to any consent required by virtue of this section;
- (b) if the consent to the original disposal was given under section 43 of that Act, subsections (2)(b) and (3) to (4A) of that section shall also apply to any consent required by virtue of this section;
- (c) in the application of subsection (4A) of section 34 or section 43 to any consent required by virtue of this section, any reference to the local authority making the disposal shall be construed as a reference to the local authority making the original disposal; and
- (d) the instrument by which the original disposal is effected shall contain a statement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the land or house by the person to whom the original disposal was made.

(4) Subsection (4) of section 32 of the Housing Act 1985 or, as the case may be, subsection (5) of section 43 of that Act (options to purchase as disposals) applies for the purposes of this section.

(5) Before giving any consent required by virtue of this section, the Secretary of State—

- (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any land or house proposed to be disposed of; and
- (b) shall have regard to the responses of any such tenants to that consultation.

[<sup>F4</sup>(5A) A person seeking any consent required by virtue of this section is not required to consult a tenant of the land or house proposed to be disposed of if—

- (a) consent is sought for the disposal of the land or house to that tenant or to persons including that tenant; or
- (b) consent is sought subject to the condition that the land or house is vacant at the time of the disposal;

and, accordingly, subsection (5) does not apply in either case.]

(6) If, apart from subsection (7) below, the consent of the Housing Corporation <sup>F5</sup> . . . would be required under [<sup>F6</sup>section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or] section 9 of the <sup>M5</sup>Housing Associations Act 1985 (control of dispositions of land by [<sup>F7</sup>unregistered] housing associations) for a disposal

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- in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.
- (7) No consent shall be required under [<sup>F8</sup>section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985] for any disposal in respect of which consent is given [<sup>F9</sup>under this section].
- (8) Where the title of the authority to the land or house which is disposed of by the original disposal is not registered, and the original disposal is a conveyance, grant or assignment of a description mentioned in section 123 of the <sup>M6</sup>Land Registration Act 1925 (compulsory registration of title)—
- <sup>F10</sup>(a) .....
- (b) the authority shall give to the person to whom the original disposal is made a certificate in a form approved by the Chief Land Registrar stating that the authority is entitled to make the disposal subject only to such encumbrances, rights and interests as are stated in the instrument by which the original disposal is effected or summarised in the certificate; and
- (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1986 the authority by whom the original disposal was made is liable to indemnify him.
- (9) On an application being made for registration of a disposition of registered land or, as the case may be, of the title under a disposition of unregistered land, if the instrument by which the original disposal is effected contains the statement required by subsection (3)(d) above, the Chief Land Registrar shall enter in the register a restriction stating the requirement of this section as to consent to a subsequent disposal.
- (10) In every case where the consent of the Secretary of State is required for the original disposal by virtue of section 32 or section 43 of the <sup>M7</sup>Housing Act 1985 (whether or not consent is required under this section to a subsequent disposal), the authority by which the original disposal is made shall furnish to the person to whom it is made a copy of that consent.

#### Textual Amendments

- F2** Words in s. 133(1A) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. IV para. 21(2)**; S.I. 1996/2402, **art. 2**
- F3** Words in s. 133(2A) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. IV para. 21(3)**; S.I. 1996/2402, **art. 2**
- F4** Words in s. 133(5A) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. IV para. 21(4)**; S.I. 1996/2402, **art. 2**
- F5** Words in s. 133(6) repealed (1.11.1988) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 71(a), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F6** Words in s. 133(6) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2** para. 18(12)(a)(i)
- F7** Words in s. 133(6) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2** para. 18(12)(a)(ii)
- F8** Words in s. 133(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2** para. 18(12)(b)
- F9** Words in s. 133(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 71(b)**(with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F10** S. 133(8)(a) repealed (1.4.1998) by 1997 c. 2, s. 4(2), **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2**

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**Modifications etc. (not altering text)**

**C1** S. 133 excluded (1.11.1993) by 1993 c. 28, ss. 37, 56(6), **Sch. 10 para. 1(2)(a)**; S.I. 1993/2134, **arts. 2, 5**

**Marginal Citations**

**M4** 1985 c. 68.

**M5** 1985 c. 69.

**M6** 1925 c. 21.

**M7** 1985 c. 68.

**134 Consent required for certain subsequent disposals: Scotland.**

In Part I of the <sup>M8</sup>Housing (Scotland) Act 1987 (provision of housing) after section 12 there shall be inserted the following section—

**“12A Consent of Secretary of State required for certain subsequent disposals.**

- (1) Where a person acquires any land or house from a local authority under section 12(1)(c) or (d) above and the consent of the Secretary of State is required under section 12(7) above to the local authority’s disposal of the land or house to that person, that person shall not dispose of the land or house without the consent in writing of the Secretary of State.
- (2) Any consent for the purposes of subsection (1) above may be given either in respect of a particular disposal or in respect of disposals of any class or description (including disposals in particular areas) and either unconditionally or subject to conditions.
- (3) Before giving any consent for the purposes of subsection (1) above, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any land or house proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- (4) The consent of Scottish Homes under section 9 of the Housing Associations Act 1985 (control of dispositions) is not required for any disposal, or disposals of any class or description, in respect of which consent is given under subsection (1) above.
- (5) In this section references to disposing of property include references to—
  - (a) granting or disposing of any interest in property;
  - (b) entering into a contract to dispose of property or to grant or dispose of any such interest; and
  - (c) granting an option to acquire property or any such interest.”

**Marginal Citations**

**M8** 1987 c. 26.

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**135 Consultation before disposal: Scotland.**

- (1) In Part III of the <sup>M9</sup>Housing (Scotland) Act 1987 (rights of public sector tenants) after section 81 there shall be inserted the following section—

*“ Consultation before disposal to private sector landlord*

**81B Consultation before disposal to private sector landlord.**

The provisions of Schedule 6A have effect with respect to the duties of—  
(a) a local authority proposing to dispose of houses let on secure tenancies;  
(b) the Secretary of State in considering whether to give his consent under section 12(7) 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 (that is to say, tenants under secure tenancies).”

- (2) After Schedule 6 to the Housing (Scotland) Act 1987 there shall be inserted, as Schedule 6A, the Schedule set out in Schedule 16 to this Act.
- (3) The amendments made by this section apply to disposals after the coming into force of this section.

.....  
**Commencement Information**  
I1 S. 135 wholly in force at 21.2.1992 see s. 141(2) and S.I. 1992/324, art. 2  
.....  
**Marginal Citations**  
M9 1987 c. 26.

**136** ..... <sup>F11</sup>

.....  
**Textual Amendments**  
F11 Ss. 132(4)(5), 136 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61),s. 194(2), Sch. 12 Pt. I

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