



Housing Act 1988

1988 CHAPTER 50

PART V

MISCELLANEOUS AND GENERAL

Leases.

115 Premiums on long leases

(1) With respect to—

- (a) any premium received or required to be paid after the commencement of this Act, or
- (b) any loan required to be made after that commencement,

section 127 of the Rent Act 1977 (allowable premiums in relation to certain long tenancies) shall have effect subject to the amendments in subsections (2) and (3) below.

(2) For subsections (2) and (3) there shall be substituted the following subsections—

“(2) The conditions mentioned in subsection (1)(a) above are—

- (a) that the landlord has no power to determine the tenancy at any time within twenty years beginning on the date when it was granted; and
- (b) that the terms of the tenancy do not inhibit both the assignment and the underletting of the whole of the premises comprised in the tenancy;

but for the purpose of paragraph (b) above there shall be disregarded any term of the tenancy which inhibits assignment and underletting only during a period which is or falls within the final seven years of the term for which the tenancy was granted.

(3) The reference in subsection (2) above to a power or re-entry or forfeiture for breach of any term or condition of the tenancy.”

(3) Subsections (3C) and (3D) shall be omitted and in subsection (5) for “(2)(c)” there shall be substituted “(2)(b)”.

Status: This is the original version (as it was originally enacted).

- (4) Expressions used in subsection (1) above have the same meaning as in Part IX of the Rent Act 1977.

116 Repairing obligations in short leases

- (1) In section 11 of the Landlord and Tenant Act 1985 (repairing obligations in short leases) after subsection (1) there shall be inserted the following subsections—

“(1A) If a lease to which this section applies is a lease of a dwelling-house which forms part only of a building, then, subject to subsection (1B), the covenant implied by subsection (1) shall have effect as if—

- (a) the reference in paragraph (a) of that subsection to the dwelling-house included a reference to any part of the building in which the lessor has an estate or interest; and
- (b) any reference in paragraphs (b) and (c) of that subsection to an installation in the dwelling-house included a reference to an installation which, directly or indirectly, serves the dwelling-house and which either—
 - (i) forms part of any part of a building in which the lessor has an estate or interest; or
 - (ii) is owned by the lessor or under his control.

(1B) Nothing in subsection (1A) shall be construed as requiring the lessor to carry out any works or repairs unless the disrepair (or failure to maintain in working order) is such as to affect the lessee’s enjoyment of the dwelling-house or of any common parts, as defined in section 60(1) of the Landlord and Tenant Act 1987, which the lessee, as such, is entitled to use.”

- (2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) In any case where—

- (a) the lessor’s repairing covenant has effect as mentioned in subsection (1A), and
- (b) in order to comply with the covenant the lessor needs to carry out works or repairs otherwise than in, or to an installation in, the dwelling-house, and
- (c) the lessor does not have a sufficient right in the part of the building or the installation concerned to enable him to carry out the required works or repairs,

then, in any proceedings relating to a failure to comply with the lessor’s repairing covenant, so far as it requires the lessor to carry out the works or repairs in question, it shall be a defence for the lessor to prove that he used all reasonable endeavours to obtain, but was unable to obtain, such rights as would be adequate to enable him to carry out the works or repairs.”

- (3) At the end of section 14(4) of the said Act of 1985 (which excludes from section 11 certain leases granted to various bodies) there shall be added—

“a housing action trust established under Part III of the Housing Act 1988”.

- (4) The amendments made by this section do not have effect with respect to—
- (a) a lease entered into before the commencement of this Act; or

- (b) a lease entered into pursuant to a contract made before the commencement of this Act.

117 Certain tenancies excluded from bankrupt’s estate

- (1) In section 283 of the Insolvency Act 1986 (definition of bankrupt’s estate) at the end of subsection (3) (property excluded from the estate) there shall be inserted the following subsection—

“(3A) Subject to section 308A in Chapter IV, subsection (1) does not apply to—

- (a) a tenancy which is an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977, or
- (b) a protected tenancy, within the meaning of the Rent Act 1977, in respect of which, by virtue of any provision of Part IX of that Act, no premium can lawfully be required as a condition of assignment, or
- (c) a tenancy of a dwelling-house by virtue of which the bankrupt is, within the meaning of the Rent (Agriculture) Act 1976, a protected occupier of the dwelling-house, and the terms of which inhibit an assignment as mentioned in section 127(5) of the Rent Act 1977, or
- (d) a secure tenancy, within the meaning of Part IV of the Housing Act 1985, which is not capable of being assigned, except in the cases mentioned in section 91(3) of that Act.”

- (2) After section 308 of that Act there shall be inserted the following section—

“308A Vesting in trustee of certain tenancies

Upon the service on the bankrupt by the trustee of a notice in writing under this section, any tenancy—

- (a) which is excluded by virtue of section 283(3A) from the bankrupt’s estate, and
- (b) to which the notice relates,

vests in the trustee as part of the bankrupt’s estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee’s title to that tenancy has relation back to the commencement of the bankruptcy.”

- (3) In section 309 of that Act (time-limit for certain notices) in subsection (1)(b)—

- (a) after the words “section 308” there shall be inserted “or section 308A”; and
- (b) after the words “the property” there shall be inserted “or tenancy”.

- (4) In section 315 of that Act (disclaimer (general power)), in subsection (4) after the words “reasonable replacement value)” there shall be inserted “or 308A”.

118 Certain tenancies excluded from debtor’s estate: Scotland

- (1) In section 31 of the Bankruptcy (Scotland) Act 1985 (vesting of debtor’s estate at date of sequestration) in subsection (8) after the word “means” there shall be inserted the words “, subject to subsection (9) below,”.

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(2) After the said subsection (8) there shall be added the following subsections—

“(9) Subject to subsection (10) below, the “whole estate of the debtor” does not include any interest of the debtor as tenant under any of the following tenancies—

- (a) a tenancy which is an assured tenancy within the meaning of Part II of the Housing (Scotland) Act 1988, or
- (b) a protected tenancy within the meaning of the Rent (Scotland) Act 1984 in respect of which, by virtue of any provision of Part VIII of that Act, no premium can lawfully be required as a condition of the assignation, or
- (c) a secure tenancy within the meaning of Part III of the Housing (Scotland) Act 1987.

(10) On the date on which the permanent trustee serves notice to that effect on the debtor, the interest of the debtor as tenant under any of the tenancies referred to in subsection (9) above shall form part of his estate and vest in the permanent trustee as if it had vested in him under section 32(6) of this Act.”

119 Amendment of Landlord and tenant Act 1987

The Landlord and Tenant Act 1987 shall have effect subject to the amendments in Schedule 13 to this Act.

Rent officers

120 Appointment etc. of rent officers

Section 63 of the Rent Act 1977 (schemes for the appointment of rent officers) shall have effect subject to the amendments in Part I of Schedule 14 to this Act and after section 64 of that Act there shall be inserted the sections set out in Part II of that Schedule.

121 Rent officers: additional functions relating to housing benefit etc

(1) The Secretary of State may by order require rent officers to carry out such functions as may be specified in the order in connection with housing benefit and rent allowance subsidy.

(2) An order under this section—

- (a) shall be made by statutory instrument which, except in the case of the first order to be made, shall be subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) may make different provision for different cases or classes of case and for different areas; and
- (c) may contain such transitional, incidental and supplementary provisions as appear to the Secretary of State to be desirable;

and the first order under this section shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

- (3) In subsection (7) of section 63 of the Rent Act 1977 (expenditure arising in connection with rent officers etc.), in paragraph (a) after the words “this section” there shall be inserted “or an order under section 121 of the Housing Act 1988”.
- (4) At the end of section 21(6) of the Social Security Act 1986 (regulations prescribing maximum family credit and maximum housing benefit) there shall be added the words “and regulations prescribing the appropriate maximum housing benefit may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under section 121 of the Housing Act 1988”.
- (5) In section 30 of that Act (housing benefit finance) at the end of subsection (2) there shall be added the words “and, in relation to rent allowance subsidy, the Secretary of State may exercise his discretion as to what is unreasonable for the purposes of paragraph (b) above by reference to determinations made by rent officers in exercise of functions conferred under section 121 of the Housing Act 1988”.
- (6) In section 51(1)(h) of that Act (regulations may require information etc. needed for determination of a claim) the reference to information or evidence needed for the determination of a claim includes a reference to information or evidence required by a rent officer for the purpose of a function conferred on him under this section.
- (7) In this section “housing benefit” and “rent allowance subsidy” have the same meaning as in Part II of the Social Security Act 1986.

Right to buy etc. and grants to obtain accommodation

122 Variation of cost floor for right to buy discount

- (1) Section 131 of the Housing Act 1985 (limits on amount of discount in relation to the right to buy) shall be amended in accordance with subsections (2) and (3) below.
- (2) In subsection (1) (the cost floor provision) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) is to be treated as incurred at or after the beginning of that period of account of the landlord in which falls the date which is eight years, or such other period of time as may be specified in an order made by the Secretary of State, earlier than the relevant time, and”.
- (3) After subsection (1) there shall be inserted the following subsection—

“(1A) In subsection (1)(a) above “period of account”, in relation to any costs, means the period for which the landlord made up those of its accounts in which account is taken of those costs.”
- (4) This section has effect in relation to the determination of discount in any case where—
 - (a) the relevant time falls on or after the date on which this section comes into force; or
 - (b) paragraph (a) above does not apply but the landlord has not before that date served on the tenant a notice complying with section 125 of the Housing Act 1985; or
 - (c) the tenant has before that date claimed to exercise the right to be granted a shared ownership lease but the landlord has not before that date served on the tenant a notice complying with section 147 of that Act; or

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(d) the tenant has before that date served a notice under paragraph 1 of Schedule 8 to that Act (claiming to exercise the right to acquire an additional share under a shared ownership lease) but the landlord has not before that date served a notice under sub-paragraph (3) of that paragraph;

and, for the purposes of this subsection, no account shall be taken of any steps taken under section 177 of that Act (amendment or withdrawal and re-service of notice to correct mistakes).

(5) Expressions used in subsection (4) above have the same meaning as in Part V of the Housing Act 1985.

123 Amendment of Schedule 5 to Housing Act 1985

(1) Schedule 5 of the Housing Act 1985 (exceptions to the right to buy) shall be amended in accordance with this section.

(2) Paragraphs 6 and 8 shall be omitted.

(3) The repeal by this Act of paragraphs 6 and 8 of Schedule 5 shall not affect the operation of either of those paragraphs in any case where the tenant's notice claiming to exercise the right to buy was served before the repeal comes into force unless, at that time, no notice in response had been served under section 124 of the Housing Act 1985 (landlord's notice admitting or denying right to buy).

(4) For the purposes of subsection (3) above, no account shall be taken of any steps taken under section 177 of the Housing Act 1985 (amendment or withdrawal and re-service of notice to correct mistakes).

124 Right to buy: tenant's sanction for landlord's delays

After section 153 of the Housing Act 1985 there shall be inserted the following sections—

“153A Tenant's notices of delay

(1) Where a secure tenant has claimed to exercise the right to buy, he may serve on his landlord a notice (in this section referred to as an “initial notice of delay”) in any of the following cases, namely,—

(a) where the landlord has failed to serve a notice under section 124 within the period appropriate under subsection (2) of that section;

(b) where the tenant's right to buy has been established and the landlord has failed to serve a notice under section 125 within the period appropriate under subsection (1) of that section;

(c) where the tenant has claimed to exercise the right to be granted a shared ownership lease and the landlord has failed to serve a notice under section 146 within the period of the four weeks required by that section;

(d) where the tenant's right to a shared ownership lease has been established and the landlord has failed to serve a notice under section 147 within the period of the eight weeks required by that section; or

- (e) where the tenant considers that delays on the part of the landlord are preventing him from exercising expeditiously his right to buy or his right to be granted a shared ownership lease;
and where an initial notice of delay specifies any of the cases in paragraphs (a) to (d), any reference in this section or section 153B to the default date is a reference to the end of the period referred to in the paragraph in question or, if it is later, the day appointed for the coming into force of section 124 of the Housing Act 1988.
- (2) An initial notice of delay—
 - (a) shall specify the most recent action of which the tenant is aware which has been taken by the landlord pursuant to this Part of this Act; and
 - (b) shall specify a period (in this section referred to as “the response period”), not being less than one month, beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (3) will have the effect of cancelling the initial notice of delay.
 - (3) Within the response period specified in an initial notice of delay or at any time thereafter, the landlord may serve on the tenant a counter notice in either of the following circumstances—
 - (a) if the initial notice specifies any of the cases in paragraphs (a) to (d) of subsection (1) and the landlord has served, or is serving together with the counter notice, the required notice under section 124, section 125, section 146 or section 147, as the case may be; or
 - (b) if the initial notice specifies the case in subsection (1)(e) and there is no action under this Part which, at the beginning of the response period, it was for the landlord to take in order to allow the tenant expeditiously to exercise his right to buy or his right to be granted a shared ownership lease and which remains to be taken at the time of service of the counter notice.
 - (4) A counter notice under subsection (3) shall specify the circumstances by virtue of which it is served.
 - (5) At any time when—
 - (a) the response period specified in an initial notice of delay has expired, and
 - (b) the landlord has not served a counter notice under subsection (3),the tenant may serve on the landlord a notice (in this section and section 153B referred to as an “operative notice of delay”) which shall state that section 153B will apply to payments of rent made by the tenant on or after the default date or, if the initial notice of delay specified the case in subsection (1)(e), the date of the service of the notice.
 - (6) If, after a tenant has served an initial notice of delay, a counter notice has been served under subsection (3), then, whether or not the tenant has also served an operative notice of delay, if any of the cases in subsection (1) again arises, the tenant may serve a further initial notice of delay and the provisions of this section shall apply again accordingly.

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153B Payments of rent attributable to purchase price etc

- (1) Where a secure tenant has served on his landlord an operative notice of delay, this section applies to any payment of rent which is made on or after the default date or, as the case may be, the date of the service of the notice and before the occurrence of any of the following events (and, if more than one event occurs, before the earliest to occur)—
 - (a) the service by the landlord of a counter notice under section 153A(3);
 - (b) the date on which the landlord makes to the tenant the grant required by section 138 or, as the case may be, section 150;
 - (c) the date on which the tenant serves notice under section 142(2) (claiming to be entitled to defer completion);
 - (d) the date on which the tenant withdraws or is deemed to have withdrawn the notice claiming to exercise the right to buy or, as the case may be, the notice claiming to exercise the right to be granted a shared ownership lease; and
 - (e) the date on which the tenant ceases to be entitled to exercise the right to buy.

- (2) Except where this section ceases to apply on a date determined under any of paragraphs (c) to (e) of subsection (1), so much of any payment of rent to which this section applies as does not consist of—
 - (a) a sum due on account of rates, or
 - (b) a service charge (as defined in section 621A),
 shall be treated not only as a payment of rent but also as a payment on account by the tenant which is to be taken into account in accordance with subsection (3).

- (3) In a case where subsection (2) applies, the amount which, apart from this section, would be the purchase price or, as the case may be, the tenant's initial contribution for the grant of a shared ownership lease shall be reduced by an amount equal to the aggregate of—
 - (a) the total of any payments on account treated as having been paid by the tenant by virtue of subsection (2); and
 - (b) if those payments on account are derived from payments of rent referable to a period of more than twelve months, a sum equal to the appropriate percentage of the total referred to in paragraph (a).

- (4) In subsection (3)(b) “the appropriate percentage” means 50 per cent. or such other percentage as may be prescribed.”

125 Restriction on letting etc. of certain houses in National Parks etc

- (1) Section 37 of the Housing Act 1985 (restriction on disposals of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word “his” there shall be inserted “(a)” and at the end there shall be added “and
 - (b) there will be no disposal by way of tenancy or licence without the written consent of the authority unless the disposal is to a person satisfying that condition or by a person whose only or principal home

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is and, throughout the duration of the tenancy or licence, remains the house”.

- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.
- (4) At the end of subsection (4) (disposals in breach of covenant to be void) there shall be added “and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the local authority as if—
 - (a) the authority were possessed of land adjacent to the house concerned; and
 - (b) the covenant were expressed to be made for the benefit of such adjacent land”.
- (5) After subsection (4) there shall be inserted the following subsection—

“(4A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.”
- (6) This section has effect where the conveyance, grant or assignment referred to in subsection (1) of section 37 is executed on or after the commencement of this Act.

126 Restriction on disposal of dwelling-houses in National Parks etc. acquired under the right to buy

- (1) In Part V of the Housing Act 1985 (the right to buy), section 157 (restriction on disposal of dwelling-houses in National Parks etc.) shall be amended in accordance with this section.
- (2) In subsection (2) (the covenanted limitation) after the word “his” there shall be inserted “(a)” and at the end there shall be added “and—
 - (b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house”.
- (3) In subsection (3) (disposals limited to persons employed or living locally) after the words “application for consent” there shall be inserted the words “or, in the case of a disposal by way of tenancy or licence, preceding the disposal”.
- (4) At the end of subsection (6) (disposals in breach of covenant to be void) there shall be added “and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if—
 - (a) the landlord were possessed of land adjacent to the house concerned; and
 - (b) the covenant were expressed to be made for the benefit of such adjacent land”.
- (5) After subsection (6) there shall be inserted the following subsection—

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“(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or licence does not include a reference to a relevant disposal or an exempted disposal.”

- (6) This section has effect where the conveyance or grant referred to in subsection (1) of section 157 is executed on or after the commencement of this Act.

127 Preserved right to buy

- (1) In subsection (4) of section 171B of the Housing Act 1985 for paragraph (a) there shall be substituted the following paragraphs—

“(a) where the former secure tenancy was not a joint tenancy and, immediately before his death, the former secure tenant was tenant under an assured tenancy of a dwelling-house in relation to which he had the preserved right to buy, a member of the former secure tenant’s family who acquired that assured tenancy under the will or intestacy of the former secure tenant;

(aa) where the former secure tenancy was not a joint tenancy, a member of the former secure tenant’s family to whom the former secure tenant assigned his assured tenancy of a dwelling-house in relation to which, immediately before the assignment, he had the preserved right to buy”.

- (2) In subsection (2)(a) of section 171C of that Act after the word “paragraphs” there shall be inserted “1, 3 and”.

- (3) After subsection (4) of that section there shall be added the following subsection—

“(5) The disapplication by the regulations of paragraph 1 of Schedule 5 shall not be taken to authorise any action on the part of a charity which would conflict with the trusts of the charity.”

128 Preservation of right to buy on disposal to private sector landlord: Scotland

After section 81 of the Housing (Scotland) Act 1987 there shall be inserted the following section—

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

81A Preservation of right to buy on disposal to private sector landlord

- (1) The right to buy provisions shall continue to apply where a person ceases to be a secure tenant of a house by reason of the disposal by the landlord of an interest in the house to a private sector landlord.
- (2) The right to buy provisions shall not, however, continue to apply under subsection (1) in such circumstances as may be prescribed.
- (3) The continued application under subsection (1) of the right to buy provisions shall be in accordance with and subject to such provision as is prescribed which may—
- (a) include—

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- (i) such additions and exceptions to, and adaptations and modifications of, the right to buy provisions in their continued application by virtue of this section; and
 - (ii) such incidental, supplementary and transitional provisions; as the Secretary of State considers appropriate;
 - (b) differ as between different cases or descriptions of case and as between different areas;
 - (c) relate to a particular disposal.
- (4) Without prejudice to the generality of subsection (3), provision may be made by virtue of it—
- (a) specifying the persons entitled to the benefit of the right to buy provisions in their continued application by virtue of this section;
 - (b) preventing, except with the consent of the Secretary of State, the disposal by the private sector landlord of less than his whole interest in a house in relation to which the right to buy provisions continue to apply by virtue of this section;
 - (c) ensuring that where, under Ground 9 of Schedule 5 to the Housing (Scotland) Act 1988 (availability of suitable alternative accommodation), the sheriff makes an order for possession of a house in relation to which the right to buy provisions continue to apply by virtue of this section and the tenant would not have the right under this Part (other than this section) to buy the house which is or will be available by way of alternative accommodation, these provisions as so continued will apply in relation to the house which is or will be so available.
- (5) In this section—
- (a) “secure tenant” means a tenant under a secure tenancy;
 - (b) “private sector landlord” means a landlord other than one of those set out in sub-paragraphs (i) to (iv) and (viii) and (ix) of paragraph (a) of subsection (2) of section 61;
 - (c) the “right to buy provisions” means the provisions of this Act relating to the right of a tenant of a house to purchase it under this Part and to his rights in respect of a loan.”

129 Schemes for payments to assist local housing authority tenants to obtain other accommodation

- (1) In accordance with a scheme made by a local housing authority and approved by the Secretary of State under this section, the authority may make grants to or for the benefit of qualifying tenants or licensees of the authority with a view to assisting each person to whom or for whose benefit a grant is made to obtain accommodation otherwise than as a tenant or licensee of the authority either—
- (a) by acquiring an interest in a dwelling-house; or
 - (b) by carrying out works to a dwelling-house to provide additional accommodation; or
 - (c) by both of those means.
- (2) A scheme under this section shall contain such provisions as the local housing authority considers appropriate together with any which the Secretary of State may

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require as a condition of his approval and, without prejudice to the generality, a scheme may include provisions specifying, or providing for the determination of—

- (a) the persons who are qualifying tenants or licensees for the purposes of the scheme;
 - (b) the interests which qualifying tenants or licensees may be assisted to acquire;
 - (c) the works for the carrying out of which grants may be made;
 - (d) the circumstances in which a grant may be made for the benefit of a qualifying tenant or licensee;
 - (e) the amount of the grant which may be made in any particular case and the terms on which it may be made;
 - (f) the limits on the total number and amount of grants which may be made; and
 - (g) the period within which the scheme is to apply.
- (3) The Secretary of State may approve a scheme made by a local housing authority under this section with or without conditions and, where a scheme has been approved, the authority shall take such steps as it considers appropriate to bring the scheme to the attention of persons likely to be able to benefit from it and shall take such other steps (if any) as the Secretary of State may direct in any particular case to secure publicity for the scheme.
- (4) The Secretary of State may revoke an approval of a scheme under this section by a notice given to the local housing authority concerned; and, where such a notice is given, the revocation shall not affect the operation of the scheme in relation to any grants made or agreed before the date of the notice.
- (5) Any grant made pursuant to a scheme under this section—
- (a) shall be regarded as a grant of a capital nature for the purposes of Part VIII of the Local Government, Planning and Land Act 1980 (capital expenditure of local authorities); and
 - (b) shall be regarded as expenditure on management for the purposes of Part II of Schedule 14 to the Housing Act 1985 (debits to the Housing Revenue Account).
- (6) Where a scheme made by a local housing authority under this section has been approved, a person dealing with the authority shall not be concerned to see or enquire whether the terms of the scheme have been or are being complied with; and any failure to comply with the terms of a scheme shall not invalidate any grant purporting to be made in accordance with the scheme unless the person to whom the grant is made has actual notice of the failure.
- (7) In this section—
- (a) “local housing authority” has the meaning assigned by section 1 of the Housing Act 1985;
 - (b) “dwelling-house” has the meaning assigned by section 112 of that Act; and
 - (c) “tenant” does not include a tenant under a long tenancy, as defined in section 115 of that Act.

Repair notices and improvement grants

130 Repair notices

- (1) Part VI of the Housing Act 1985 (repair notices) shall have effect subject to the amendments in Schedule 15 to this Act.
- (2) In section 604 of that Act (fitness for human habitation) after subsection (1) there shall be inserted the following subsection—
 - “(1A) In the application, for the purposes of Part VI, of subsection (1) to premises consisting of a flat, within the meaning of that Part, regard shall be had not only to the condition of the flat itself but also to the condition of any other part of the building as it affects the flat and, accordingly, the flat may be deemed to be unfit by reference to the defective condition of a part of the building outside the flat (whether or not that part is itself used, or suitable for use, as a dwelling).”
- (3) The amendments in subsection (2) above and Schedule 15 to this Act do not have effect in relation to any repair notice, within the meaning of the said Part VI, served before this section comes into force.

131 Letting conditions applicable to improvement grants etc

- (1) With respect to applications for grants approved after the commencement of this Act, Part XV of the Housing Act 1985 (grants for works of improvement, repair and conversion) shall have effect subject to the following provisions of this section.
- (2) In each of the following provisions—
 - (a) section 464 (preliminary condition: certificates as to future occupation), in subsection (5) (certificate of availability for letting), and
 - (b) section 501 (condition as to availability for letting), in subsection (2) (the terms of the condition),in paragraph (a) after the word “holiday” there shall be inserted “on a tenancy which is not a long tenancy and”.
- (3) After the words “Rent (Agriculture) Act 1976”, in each place where they occur in—
 - (a) section 464(5),
 - (b) section 501(2), and
 - (c) subsection (2)(d) of section 503 (restriction on imposition of further conditions in relation to certain grants),there shall be inserted “or is occupied under an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988”.
- (4) In section 504 (further conditions as to letting of dwelling), at the beginning of subsection (1) there shall be inserted the words “Subject to subsection (1A)”; in paragraph (a) of that subsection after the word “letting” there shall be inserted “on an assured tenancy which is not a long tenancy or”; and at the end of that subsection there shall be inserted the following subsection—
 - “(1A) Paragraphs (d) to (f) of subsection (1) do not apply in the case of a dwelling which is or is to be let or available for letting on an assured tenancy.”

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

- (5) In subsection (2) of section 504 (definitions) after the words “subsection (1)” there shall be inserted “and subsection (1A)” and before paragraph (a) there shall be inserted the following paragraph—
- “(aa) “assured tenancy” means a tenancy which is an assured tenancy within the meaning of Part I of the Housing Act 1988 or would be such a tenancy if paragraphs 3, 6, 7 and 10 of Schedule 1 to that Act were omitted”.
- (6) In section 526 (index of defined expressions in Part XV), after the entry relating to “local housing authority” there shall be inserted—

“long tenancy section 115”.

- (7) Without prejudice to subsection (1) above, where an application for a grant—
- (a) was made but not approved before the commencement of this Act, and
 - (b) was accompanied by a certificate of availability for letting in a form which does not take account of the amendments of section 464(5) by subsections (2) and (3) above,
- the certificate shall be treated as if it were in a form which takes account of the amendments made by those subsections.
- (8) Without prejudice to subsection (1) above, where a grant has been approved before the commencement of this Act and—
- (a) section 501(2) applies to impose a condition of the grant, or
 - (b) conditions have been imposed in terms of section 504(1),
- the condition or conditions shall have effect as if it or they were in a form which takes account of the amendments made by subsection (3) or, as the case may be, subsections (4) and (5) above.

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 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.

(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 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) In section 153 of the Local Government Act 1972 (application of capital money on disposal of land), in subsection (1) after the words “127(4) above” there shall be inserted “to any directions given in respect of the disposal under section 43(4B) of the Housing Act 1985”.
- (5) In section 430 of the Housing Act 1985 (application of capital money received on disposal of land), in subsection (1) after the word “applied”, in the first place where it occurs, there shall be inserted “in accordance with any directions given in respect of the disposal under section 34(4B) or section 43(4B) and, subject thereto”.
- (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 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.

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.
- (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 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—

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

- (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.

- (3) Where subsection (1) above applies—
 - (a) if section 34 of the 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.
- (6) If, apart from subsection (7) below, the consent of the Housing Corporation or Housing for Wales would be required under section 9 of the Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal 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 the said section 9 for any disposal in respect of which consent is given in accordance with subsection (6) above.
- (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 Land Registration Act 1925 (compulsory registration of title)—
 - (a) that section applies in relation to the instrument by which the original disposal is effected whether or not the land or house is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force;

- (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 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.

134 Consent required for certain subsequent disposals: Scotland

In Part I of the 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.

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

- (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.”

135 Consultation before disposal: Scotland

- (1) In Part III of the 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.

136 Application of capital money to meet costs of disposals of land

- (1) At the end of section 430 of the Housing Act 1985 (application of capital money received on disposal of land) there shall be inserted the following subsection—

“(3) In the case of capital money received by a local authority in respect of—

- (a) disposals of land held for the purposes of Part II (provision of housing), and
- (b) any other disposals of land made by virtue of Part V (the right to buy) which do not fall within paragraph (a),

the reference in subsection (1) to any other purpose for which capital money may properly be applied includes a reference to the purpose of meeting the administrative costs of and incidental to such disposals; and, accordingly, the reference in subsection (2) to subsection (1) includes a reference to that subsection as extended by virtue of this subsection.”

- (2) In section 72 of the Local Government, Planning and Land Act 1980 (expenditure which authorities may make), in subsection (7) (net capital receipts for any year defined as the receipts which are capital receipts for the purposes of Part VIII of that Act, reduced by certain payments) after the words “reduced by” there shall be inserted—

- “(a) any amount of capital money which in that year is applied for the purpose specified in section 430(3) of the Housing Act 1985 (meeting administrative costs of and incidental to certain disposals of land); and
- (b)”.

Codes of practice

137 Codes of practice in field of rented housing

- (1) Section 47 of the Race Relations Act 1976 (codes of practice) shall be amended in accordance with the following provisions of this section.
- (2) In subsection (1) for the words “either or both” there shall be substituted the words “all or any” and at the end there shall be added the following paragraphs—
 - “(c) the elimination of discrimination in the field of housing let on tenancies or occupied under licences (“the field of rented housing”);
 - (d) the promotion of equality of opportunity in the field of rented housing between persons of different racial groups”.
- (3) In subsection (3), after the words “code of practice” there shall be inserted “relating to the field of employment” and after that subsection there shall be inserted the following subsection—

“(3A) In the course of preparing any draft code of practice relating to the field of rented housing for eventual publication under subsection (2) the Commission shall consult with such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.”
- (4) In subsection (4) for the words “the draft” there shall be substituted “a draft code of practice”.
- (5) In subsection (10) after the words “industrial tribunal” there shall be inserted “a county court or, in Scotland, a sheriff court” and after the words “the tribunal” there shall be inserted “or the court”.

Supplementary

138 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
 - (a) any sums required for the payment by the Secretary of State of grants under this Act;
 - (b) any sums required to enable the Secretary of State to make payments to housing action trusts established under Part III of this Act;
 - (c) any other expenses of the Secretary of State under this Act; and
 - (d) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act, other than those required to be paid into the National Loans Fund, shall be paid into the Consolidated Fund.

139 Application to Isles of Scilly

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

140 Amendments and repeals

- (1) Schedule 17 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act and the Housing (Scotland) Act 1988, shall have effect and in that Schedule Part I contains general amendments and Part II contains amendments consequential on the establishment of Housing for Wales.
- (2) The enactments specified in Schedule 18 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule and to any saving in Chapter V of Part I of or Schedule 17 to this Act.

141 Short title, commencement and extent

- (1) This Act may be cited as the Housing Act 1988.
- (2) The provisions of Parts II and IV of this Act and sections 119, 122, 124, 128, 129, 135 and 140 above shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.
- (3) Part I and this Part of this Act, other than sections 119, 122, 124, 128, 129, 132, 133, 134, 135 and 138 onwards, shall come into force at the expiry of the period of two months beginning on the day it is passed; and any reference in those provisions to the commencement of this Act shall be construed accordingly.
- (4) An order under subsection (2) above may make such transitional provisions as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.
- (5) Parts I, III and IV of this Act and this Part, except sections 118, 128, 132, 134, 135 and 137 onwards, extend to England and Wales only.
- (6) This Act does not extend to Northern Ireland.