

COMMONHOLD AND LEASEHOLD REFORM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE SECTIONS: PART 1

Qualifying rules

Section 130: Replacement of residence test

223. *Section 130* removes the previous requirement that tenants must satisfy a residence test to qualify for this right. Instead, it introduces a new requirement that the tenant must have been a qualifying tenant (i.e. a long leaseholder) for at least two years before they can exercise this right.

Section 131: Qualifying leases

224. *Section 131* amends the definition of qualifying tenant. Previously, a qualifying tenant had to either have a lease of more than 35 years (a lease for a particularly long term) or a lease of more than 21 years at a low rent. The amendments remove the 'low rent' and lease for a 'particularly long term' tests. Following these changes, a qualifying tenant is, for the purposes of the right to acquire a new lease, a long leaseholder of a flat.

Section 132: Personal representatives

225. *Section 132* makes special provision for the benefit of those who inherit leases. Provided that the deceased had been a qualifying tenant for at least two years (see section 130), their personal representatives will have the right to a new lease notwithstanding the fact that they have not, themselves, held the lease for at least two years. This right can only be exercised during a period of two years starting from the date of grant of probate or of letters of administration.

Section 133: Crown leases

226. *Section 133* inserts a new version of section 94(2) of the 1993 Act. It ensures that any long leaseholder of a flat in a Crown property can obtain a new lease under that Act where their immediate landlord is not the Crown. Where the Crown is the immediate landlord, the long leaseholder can obtain a new lease outside the 1993 Act under the voluntary undertaking given by the Crown to that effect.