

# HOUSING ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 6

#### *Section 180: Extension of qualifying period for right to buy*

407. At present, the Right to Buy does not arise unless the tenant has occupied accommodation under a public sector tenancy (i.e. armed forces accommodation or as a tenant of one of the classes of public sector landlord specified in Schedule 4 to the 1985 Act) for a period of at least two years. This section will extend the qualifying period from 2 years to 5 years. In all other ways, qualification will remain subject to the requirements of Schedule 4. However, although tenants will in future have to wait 5 years instead of 2 years to qualify for the Right to Buy, the amount of discount for which they will qualify under section 129 of the 1985 Act will be equal to their current discount entitlement after 5 years. Hence, after 5 years, they will qualify for discount as follows:
- for a house, 35 per cent – under the current rules, tenants are entitled to 32 per cent after two years plus one per cent for each of the additional three qualifying years.
  - for a flat, 50 per cent – under the current rules, tenants are entitled to 44 per cent after two years plus two per cent for each of the additional three qualifying years.
408. The total amount of discount for which any tenant is eligible will however remain subject to the limits set by the Secretary of State under section 131 of the 1985 Act.
409. This section will only apply to wholly new tenancies that begin on or after the day on which it comes into effect. Therefore, it does not apply to:
- secure tenancies that begin or were agreed to before that day, or
  - individuals who were public sector tenants on that day and remain so up to the day on which they serve a notice under section 122 of the Housing Act 1985 applying for the Right to Buy - for example, secure tenants or tenants whose landlords are Registered Social Landlords who begin a new secure tenancy after the day on which this section comes into effect. This could happen because a secure tenant moves to a different property, or because a tenant of a Registered Social Landlord begins a new tenancy with a local authority landlord.