



# Housing Act 2004

## 2004 CHAPTER 34

### PART 6

#### OTHER PROVISIONS ABOUT HOUSING

#### CHAPTER 1

#### SECURE TENANCIES

#### *Introductory tenancies*

#### **179 Extension of introductory tenancies**

- (1) Part 5 of the Housing Act 1996 (c. 52) (conduct of tenants) is amended as follows.
- (2) In section 125(2) (trial period for introductory tenancy to be one year) for “subject as follows” substitute “ but this is subject to subsections (3) and (4) and to section 125A (extension of trial period by 6 months).”
- (3) After section 125 insert—

#### **“125A Extension of trial period by 6 months**

- (1) If both of the following conditions are met in relation to an introductory tenancy, the trial period is extended by 6 months.
- (2) The first condition is that the landlord has served a notice of extension on the tenant at least 8 weeks before the original expiry date.
- (3) The second condition is that either—
  - (a) the tenant has not requested a review under section 125B in accordance with subsection (1) of that section, or

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- (b) if he has, the decision on the review was to confirm the landlord's decision to extend the trial period.
- (4) A notice of extension is a notice—
  - (a) stating that the landlord has decided that the period for which the tenancy is to be an introductory tenancy should be extended by 6 months, and
  - (b) complying with subsection (5).
- (5) A notice of extension must—
  - (a) set out the reasons for the landlord's decision, and
  - (b) inform the tenant of his right to request a review of the landlord's decision and of the time within which such a request must be made.
- (6) In this section and section 125B “the original expiry date” means the last day of the period of one year that would apply as the trial period apart from this section.

### **125B Review of decision to extend trial period**

- (1) A request for review of the landlord's decision that the trial period for an introductory tenancy should be extended under section 125A must be made before the end of the period of 14 days beginning with the day on which the notice of extension is served.
- (2) On a request being duly made to it, the landlord shall review its decision.
- (3) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under this section.

Nothing in the following provisions affects the generality of this power.

- (4) Provision may be made by regulations—
  - (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
  - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.
- (5) The landlord shall notify the tenant of the decision on the review.
 

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.
- (6) The review shall be carried out and the tenant notified before the original expiry date.”
- (4) The amendments made by this section do not apply in relation to any tenancy entered into before, or in pursuance of an agreement made before, the day on which this section comes into force.

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### Commencement Information

- II** S. 179 wholly in force at 25.11.2005; s. 179(3) in force for certain purposes at Royal Assent see s. 270(2)(b); s. 179 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(a); s. 179 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(f)

### *Right to buy: when exercisable*

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

- (1) In section 119(1) of the Housing Act 1985 (c. 68) (qualifying period for right to buy) for “two” substitute “ five ”.
- (2) In subsection (2)(a) of section 129 of that Act (discount)—
  - (a) for “two” substitute “ five ”; and
  - (b) for “32 per cent” substitute “ 35 per cent ”.
- (3) In subsection (2)(b) of that section—
  - (a) for “two”, where it appears for the second time, substitute “ five ”; and
  - (b) for “44 per cent” substitute “ 50 per cent ”.
- (4) In subsection (2A)(b) of that section for “two” substitute “ five ”.
- (5) The amendments made by this section do not apply in relation to a secure tenancy—
  - (a) if the tenancy was entered into before, or in pursuance of an agreement made before, the day on which this section comes into force, or
  - (b) if paragraph (a) does not apply but the tenant is a public sector tenant on that day and does not cease to be such a tenant at any time before serving a notice in respect of the tenancy under section 122 of that Act.
- (6) In subsection (5) “public sector tenant” has the same meaning as in Schedule 4 to that Act.

## **181 Exceptions to the right to buy: determination whether exception for dwelling-house suitable for elderly persons applies**

- (1) In Schedule 5 to the Housing Act 1985 (exceptions to the right to buy) paragraph 11 (single dwelling-house particularly suitable for elderly persons) is amended as follows.
- (2) In sub-paragraph (4) (questions arising under paragraph 11 to be determined by the Secretary of State), for “the Secretary of State” (in both places) substitute “ the appropriate tribunal or authority ”.
- (3) After sub-paragraph (5) insert—
  - “(5A) In this paragraph “the appropriate tribunal or authority” means—
    - (a) in relation to England, a residential property tribunal; and
    - (b) in relation to Wales, the Secretary of State.
  - (5B) Section 231 of the Housing Act 2004 (appeals to <sup>F1</sup>Upper Tribunal) does not apply to any decision of a residential property tribunal under this paragraph.”

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- (4) Subsections (5) and (6) apply to any application under paragraph 11(4) in respect of a dwelling-house in England which—
- (a) has been made to the Secretary of State before the day on which this section comes into force, and
  - (b) has not been determined by him before that day.
- (5) If the application was made more than 28 days before that day, it is to be determined by the Secretary of State as if the amendments made by this section had not come into force.
- (6) Otherwise—
- (a) the application is to be determined by [<sup>F2</sup>the appropriate tribunal], and
  - (b) the Secretary of State must make all such arrangements as he considers necessary for the purpose of, or in connection with, enabling it to be so determined.

#### Textual Amendments

- F1** Words in s. 181(3) substituted (1.6.2009) by [Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 275** (with Sch. 5)
- F2** Words in s. 181(6)(a) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 172** (with Sch. 3)

#### Commencement Information

- I2** S. 181 partly in force; s. 181 not in force at Royal Assent see s. 270(4)(5); s. 181 in force for E. at 4.7.2005 by [S.I. 2005/1729](#), **art. 2(a)** (subject to [art. 3](#))

## 182 Exceptions to the right to buy: houses due to be demolished

- (1) In Schedule 5 to the Housing Act 1985 (c. 68) (exceptions to the right to buy) after paragraph 12 insert—

### “Dwelling-house due to be demolished within 24 months

- 13 (1) The right to buy does not arise if a final demolition notice is in force in respect of the dwelling-house.
- (2) A “final demolition notice” is a notice—
- (a) stating that the landlord intends to demolish the dwelling-house or (as the case may be) the building containing it (“the relevant premises”),
  - (b) setting out the reasons why the landlord intends to demolish the relevant premises,
  - (c) specifying—
    - (i) the date by which he intends to demolish those premises (“the proposed demolition date”), and
    - (ii) the date when the notice will cease to be in force (unless extended under paragraph 15),
  - (d) stating that one of conditions A to C in paragraph 14 is satisfied in relation to the notice (specifying the condition concerned), and

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- (e) stating that the right to buy does not arise in respect of the dwelling-house while the notice is in force.
- (3) If, at the time when the notice is served, there is an existing claim to exercise the right to buy in respect of the dwelling-house, the notice shall (instead of complying with sub-paragraph (2)(e)) state—
- (a) that that claim ceases to be effective on the notice coming into force, but
  - (b) that section 138C confers a right to compensation in respect of certain expenditure,
- and the notice shall also give details of that right to compensation and of how it may be exercised.
- (4) The proposed demolition date must fall within the period of 24 months beginning with the date of service of the notice on the tenant.
- (5) For the purposes of this paragraph a final demolition notice is in force in respect of the dwelling-house concerned during the period of 24 months mentioned in sub-paragraph (4), but this is subject to—
- (a) compliance with the conditions in sub-paragraphs (6) and (7) (in a case to which they apply), and
  - (b) the provisions of paragraph 15(1) to (7).
- (6) If—
- (a) the dwelling-house is contained in a building which contains one or more other dwelling-houses, and
  - (b) the landlord intends to demolish the whole of the building,
- the landlord must have served a final demolition notice on the occupier of each of the dwelling-houses contained in it (whether addressed to him by name or just as “the occupier”).
- An accidental omission to serve a final demolition notice on one or more occupiers does not prevent the condition in this sub-paragraph from being satisfied.
- (7) A notice stating that the landlord intends to demolish the relevant premises must have appeared—
- (a) in a local or other newspaper circulating in the locality in which those premises are situated (other than one published by the landlord), and
  - (b) in any newspaper published by the landlord, and
  - (c) on the landlord’s website (if he has one).
- (8) The notice mentioned in sub-paragraph (7) must contain the following information—
- (a) sufficient information to enable identification of the premises that the landlord intends to demolish;
  - (b) the reasons why the landlord intends to demolish those premises;
  - (c) the proposed demolition date;
  - (d) the date when any final demolition notice or notices relating to those premises will cease to be in force, unless extended or revoked under paragraph 15;

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- (e) that the right to buy will not arise in respect of those premises or (as the case may be) in respect of any dwelling-house contained in them;
  - (f) that there may be a right to compensation under section 138C in respect of certain expenditure incurred in respect of any existing claim.
- (9) In this paragraph and paragraphs 14 and 15 any reference to the landlord, in the context of a reference to an intention or decision on his part to demolish or not to demolish any premises, or of a reference to the acquisition or transfer of any premises, includes a reference to a superior landlord.
- 14 (1) A final demolition notice may only be served for the purposes of paragraph 13 if one of conditions A to C is satisfied in relation to the notice.
- (2) Condition A is that the proposed demolition of the dwelling-house does not form part of a scheme involving the demolition of other premises.
- (3) Condition B is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, but
  - (b) none of those other premises needs to be acquired by the landlord in order for the landlord to be able to demolish them.
- (4) Condition C is that—
- (a) the proposed demolition of the dwelling-house does form part of a scheme involving the demolition of other premises, and
  - (b) one or more of those premises need to be acquired by the landlord in order for the landlord to be able to demolish them, but
  - (c) in each case arrangements for their acquisition are in place.
- (5) For the purposes of sub-paragraph (4) arrangements for the acquisition of any premises are in place if—
- (a) an agreement under which the landlord is entitled to acquire the premises is in force, or
  - (b) a notice to treat has been given in respect of the premises under section 5 of the Compulsory Purchase Act 1965, or
  - (c) a vesting declaration has been made in respect of the premises under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.
- (6) In this paragraph—
- “premises” means premises of any description;
  - “scheme” includes arrangements of any description.
- 15 (1) The Secretary of State may, on an application by the landlord, give a direction extending or further extending the period during which a final demolition notice is in force in respect of a dwelling-house.
- (2) A direction under sub-paragraph (1) may provide that any extension of that period is not to have effect unless the landlord complies with such

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requirements relating to the service of further notices as are specified in the direction.

- (3) A direction under sub-paragraph (1) may only be given at a time when the demolition notice is in force (whether by virtue of paragraph 13 or this paragraph).
- (4) If, while a final demolition notice is in force, the landlord decides not to demolish the dwelling-house in question, he must, as soon as is reasonably practicable, serve a notice (“a revocation notice”) on the tenant which informs him—
  - (a) of the landlord’s decision, and
  - (b) that the demolition notice is revoked as from the date of service of the revocation notice.
- (5) If, while a final demolition notice is in force, it appears to the Secretary of State that the landlord has no intention of demolishing the dwelling-house in question, he may serve a notice (“a revocation notice”) on the tenant which informs him—
  - (a) of the Secretary of State’s conclusion, and
  - (b) that the demolition notice is revoked as from the date of service of the revocation notice.

Section 169 applies in relation to the Secretary of State’s power under this sub-paragraph as it applies in relation to his powers under the provisions mentioned in subsection (1) of that section.

- (6) But the Secretary of State may not serve a revocation notice unless he has previously served a notice on the landlord which informs him of the Secretary of State’s intention to serve the revocation notice.
- (7) Where a revocation notice is served under sub-paragraph (4) or (5), the demolition notice ceases to be in force as from the date of service of the revocation notice.
- (8) Once a final demolition notice has (for any reason) ceased to be in force in respect of a dwelling-house without it being demolished, no further final demolition notice may be served in respect of it during the period of 5 years following the time when the notice ceases to be in force, unless—
  - (a) it is served with the consent of the Secretary of State, and
  - (b) it states that it is so served.
- (9) The Secretary of State’s consent under sub-paragraph (8) may be given subject to compliance with such conditions as he may specify.

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- (1) Any notice under paragraph 13 or 15 may be served on a person—
    - (a) by delivering it to him, by leaving it at his proper address or by sending it by post to him at that address, or
    - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body.
  - (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) the proper address of a person on whom a notice is to be served shall be—

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- (a) in the case of a body corporate or its secretary, that of the registered or principal office of the body, and
  - (b) in any other case, the last known address of that person.”
- (2) The amendment made by this section does not apply in any case where the tenant’s notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

### **183 Right to buy: claim suspended or terminated by demolition notice**

- (1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease), after the subsection (2D) inserted by section 193 of this Act, insert—
- “(2E) Subsection (1) also has effect subject to—
- (a) section 138A(2) (operation of subsection (1) suspended while initial demolition notice is in force), and
  - (b) section 138B(2) (subsection (1) disapplied where final demolition notice is served).”
- (2) After section 138 of that Act insert—

#### **“138A Effect of initial demolition notice served before completion**

- (1) This section applies where—
- (a) an initial demolition notice is served on a secure tenant under Schedule 5A, and
  - (b) the notice is served on the tenant before the landlord has made to him such a grant as is required by section 138(1) in respect of a claim by the tenant to exercise the right to buy.
- (2) In such a case the landlord is not bound to comply with section 138(1), in connection with any such claim by the tenant, so long as the initial demolition notice remains in force under Schedule 5A.
- (3) Section 138C provides a right to compensation in certain cases where this section applies.

#### **138B Effect of final demolition notice served before completion**

- (1) This section applies where—
- (a) a secure tenant has claimed to exercise the right to buy, but
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, a final demolition notice is served on the tenant under paragraph 13 of Schedule 5.
- (2) In such a case—
- (a) the tenant’s claim ceases to be effective as from the time when the final demolition notice comes into force under that paragraph, and
  - (b) section 138(1) accordingly does not apply to the landlord, in connection with the tenant’s claim, at any time after the notice comes into force.



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- (3) Section 138C provides a right to compensation in certain cases where this section applies.

### **138C Compensation where demolition notice served**

- (1) This section applies where—
- (a) a secure tenant has claimed to exercise the right to buy,
  - (b) before the landlord has made to the tenant such a grant as is required by section 138(1) in respect of the claim, either an initial demolition notice is served on the tenant under Schedule 5A or a final demolition notice is served on him under paragraph 13 of Schedule 5, and
  - (c) the tenant's claim is established before that notice comes into force under Schedule 5A or paragraph 13 of Schedule 5 (as the case may be).
- (2) If, within the period of three months beginning with the date when the notice comes into force (“the operative date”), the tenant serves on the landlord a written notice claiming an amount of compensation under subsection (3), the landlord shall pay that amount to the tenant.
- (3) Compensation under this subsection is compensation in respect of expenditure reasonably incurred by the tenant before the operative date in respect of legal and other fees, and other professional costs and expenses, payable in connection with the exercise by him of the right to buy.
- (4) A notice under subsection (2) must be accompanied by receipts or other documents showing that the tenant incurred the expenditure in question.”
- (3) After Schedule 5 to the Act insert, as Schedule 5A, the Schedule set out in Schedule 9 to this Act.
- (4) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claim to exercise right to buy) was served before the day on which this section comes into force.

### **184 Landlord's notice to complete**

- (1) Section 140 of the Housing Act 1985 (c. 68) (landlord's first notice to complete) is amended as follows.
- (2) In subsection (3) (notice not to be served earlier than twelve months after landlord's notice under section 125 or 146) for “twelve” substitute “ three ”.
- (3) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming right to buy) was served before the day on which this section comes into force.

### *Right to buy: discounts*

### **185 Repayment of discount: periods and amounts applicable**

- (1) Section 155 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).

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(2) For subsections (2) and (3) substitute—

“(2) In the case of a conveyance or grant in pursuance of the right to buy, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155A on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance or grant.

(3) In the case of a conveyance or grant in pursuance of the right to acquire on rent to mortgage terms, the covenant shall be to pay the landlord such sum (if any) as the landlord may demand in accordance with section 155B on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the making of the initial payment.”

(3) In subsection (3A) (modifications where tenant has served operative notice of delay) for “three years” substitute “ five years ”.

(4) After section 155 insert—

**“155A Amount of discount which may be demanded by landlord: right to buy**

(1) For the purposes of the covenant mentioned in section 155(2), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the discount to which the secure tenant was entitled, where the discount is expressed as a percentage of the value which under section 127 was taken as the value of the dwelling-house at the relevant time.

(3) But for each complete year which has elapsed after the conveyance or grant and before the disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.

(4) This section is subject to section 155C.

**155B Amount of discount which may be demanded by landlord: right to acquire on rent to mortgage terms**

(1) For the purposes of the covenant mentioned in section 155(3), the landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.

(2) The maximum amount which may be demanded by the landlord is the discount (if any) to which the tenant was entitled on the making of—

- (a) the initial payment,
- (b) any interim payment made before the disposal, or
- (c) the final payment if so made,

reduced, in each case, by one-fifth for each complete year which has elapsed after the making of the initial payment and before the disposal.”

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- (5) The amendments made by this section do not apply in any case where the tenant's notice under section 122 of the Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.
- (6) Subsection (7), however, applies in any such case if the first relevant disposal to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (7) In the following provisions—
  - (a) section 155(2) and (3) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and
  - (b) any covenant for repayment of discount,  
any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.
- (8) In subsections (6) and (7) “covenant for repayment of discount” means the covenant contained in a conveyance or grant in accordance with section 155 of that Act.

## **186 Repayment of discount: increase attributable to home improvements to be disregarded**

- (1) After section 155B of the Housing Act 1985 (c. 68) (inserted by section 185 of this Act) insert—

### **“155C Increase attributable to home improvements**

- (1) In calculating the maximum amount which may be demanded by the landlord under section 155A, such amount (if any) of the price or premium paid for the disposal which is attributable to improvements made to the dwelling-house—
    - (a) by the person by whom the disposal is, or is to be, made, and
    - (b) after the conveyance or grant and before the disposal,shall be disregarded.
  - (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
  - (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
    - (a) it is reasonably practicable for him to do so; and
    - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
  - (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.”
- (2) In section 181 of that Act (jurisdiction of county court) for “and 158” substitute “ , 155C and 158 ”.

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## 187 Deferred resale agreements

(1) After section 163 of the Housing Act 1985 insert—

### **“163A Treatment of deferred resale agreements for purposes of section 155**

- (1) If a secure tenant or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 155 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
  - (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the secure tenant or his successor in title and any other person—
  - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, the tenant exercising, or having exercised, the right to buy,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
  - (a) whether or not the date on which the disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make the disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
  - (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
  - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
  - (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
 

“agreement” includes arrangement;

“the discount repayment period” means the period of three or five years that applies for the purposes of section 155(2) or (3) (depending on whether the tenant’s notice under section 122 was given before or on or after the date of the coming into force of section 185 of the Housing Act 2004).”

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*Status: Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*  
*Changes to legislation: Housing Act 2004, Part 6 is up to date with all changes known to be in force on or before 14 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

#### Commencement Information

- I3** S. 187 wholly in force at 18.1.2005; s. 187 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

#### *Right to buy: landlord's right of first refusal*

### **188 Right of first refusal for landlord etc.**

- (1) After section 156 of the Housing Act 1985 (c. 68) insert—

#### **“156A Right of first refusal for landlord etc.**

- (1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain the following covenant, which shall be binding on the secure tenant and his successors in title.

This is subject to subsection (8).

- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance or grant, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (3) In subsection (2) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance or grant is made.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a landlord who has conveyed a freehold or granted a lease to a person (“the former tenant”) in pursuance of this Part, or
  - (b) such other person as is determined in accordance with the regulations, a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 158.
- (5) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the dwelling-house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
- (a) for the former tenant to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient

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- considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
- (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the former tenant and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the former tenant is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (7) In subsection (6) any reference to the former tenant is a reference to the former tenant or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) In a case to which section 157(1) applies—
- (a) the conveyance or grant may contain a covenant such as is mentioned in subsections (1) and (2) above instead of a covenant such as is mentioned in section 157(1), but
  - (b) it may do so only if the Secretary of State or, where the conveyance or grant is executed by a housing association within section 6A(3) or (4), the Relevant Authority consents.
- (9) Consent may be given in relation to—
- (a) a particular disposal, or
  - (b) disposals by a particular landlord or disposals by landlords generally, and may, in any case, be given subject to conditions.
- (10) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) The limitation imposed by a covenant within subsection (2) (whether the covenant is imposed in pursuance of subsection (1) or (8)) is a local land charge.
- (12) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.”
- (2) In section 157 of that Act (restriction on disposal of dwelling-houses in National Parks etc.)—
- (a) in subsection (1), after “the conveyance or grant may” insert “ (subject to section 156A(8) ”;
  - (b) in subsection (2), omit “, subject to subsection (4),”; and

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- (c) omit subsections (4) and (5) (which provide for a landlord’s right of first refusal).
- (3) In section 158 of that Act (consideration for conveyance or surrender under section 157)—
  - (a) in the sidenote, for “reconveyance or surrender under section 157” substitute “disposal under section 156A”;
  - (b) for subsection (1) substitute—
    - “(1) The consideration for such a disposal as is mentioned in section 156A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the dwelling-house at the time when the offer is made (as determined in accordance with regulations under that section).”;
  - (c) in subsection (2), for “or surrendered” substitute “, conveyed, surrendered or assigned”;
  - (d) in subsection (3), for “the landlord accepts the offer,” substitute “the offer is accepted in accordance with regulations under section 156A,”; and
  - (e) in subsection (4), for “to reconvey or surrender” substitute “(as determined in accordance with regulations under section 156A).”
- (4) In section 162 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—
  - “(aa) the covenant required by section 156A (right of first refusal for landlord etc.) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and”.
- (5) The amendments made by this section do not apply in relation to a conveyance of the freehold or grant of a lease in pursuance of Part 5 of that Act if the notice under section 122 of the Act (tenant’s notice claiming to exercise right to buy) was served before the day on which this section comes into force.
- (6) Accordingly, nothing in this section affects—
  - (a) the operation of a limitation contained in such a conveyance or grant in accordance with section 157(4) of that Act, or
  - (b) the operation, in relation to such a limitation, of section 157(6) (so far as it renders a disposal in breach of covenant void) or section 158 (consideration payable) of that Act.

#### Commencement Information

**I4** [S. 188](#) wholly in force at 18.1.2005; [s. 188](#) in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see [s. 270\(2\)\(b\)\(3\)\(a\)](#)

#### *Right to buy: information*

### **189 Information to help tenants decide whether to exercise right to buy etc.**

- (1) After section 121 of the Housing Act 1985 (c. 68) insert—

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**“121AA Information to help tenants decide whether to exercise right to buy etc.**

- (1) Every body which lets dwelling-houses under secure tenancies shall prepare a document that contains information for its secure tenants about such matters as are specified in an order made by the Secretary of State.
- (2) The matters that may be so specified are matters which the Secretary of State considers that it would be desirable for secure tenants to have information about when considering whether to exercise the right to buy or the right to acquire on rent to mortgage terms.
- (3) The information contained in the document shall be restricted to information about the specified matters, and the information about those matters—
  - (a) shall be such as the body concerned considers appropriate, but
  - (b) shall be in a form which the body considers best suited to explaining those matters in simple terms.
- (4) Once a body has prepared the document required by subsection (1), it shall revise it as often as it considers necessary in order to ensure that the information contained in it—
  - (a) is kept up to date so far as is reasonably practicable, and
  - (b) reflects any changes in the matters for the time being specified in an order under this section.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**121B Provision of information**

- (1) This section sets out when the document prepared by a body under section 121AA is to be published or otherwise made available.
- (2) The body shall—
  - (a) publish the document (whether in its original or a revised form), and
  - (b) supply copies of it to the body’s secure tenants,
 at such times as may be prescribed by, and otherwise in accordance with, an order made by the Secretary of State.
- (3) The body shall make copies of the current version of the document available to be supplied, free of charge, to persons requesting them.
- (4) The copies must be made available for that purpose—
  - (a) at the body’s principal offices, and
  - (b) at such other places as it considers appropriate,
 at reasonable hours.
- (5) The body shall take such steps as it considers appropriate to bring to the attention of its secure tenants the fact that copies of the current version of the document can be obtained free of charge from the places where, and at the times when, they are made available in accordance with subsection (4).



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- (6) In this section any reference to the current version of the document is to the version of the document that was last published by the body in accordance with subsection (2)(a).
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 104(1) of that Act (provision of information about tenancies), in paragraph (b) (information about Part 4 and Part 5), omit “and Part V (the right to buy)”.

#### Commencement Information

- I5** S. 189 wholly in force at 18.1.2005; s. 189 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

PROSPECTIVE

#### *Right to buy: termination of rent to mortgage scheme*

### **190 Termination of rent to mortgage scheme**

- (1) Before section 143 of the Housing Act 1985 (c. 68) insert—

#### **“142A Termination of the right to acquire on rent to mortgage terms**

- (1) As from the termination date, the right to acquire on rent to mortgage terms is not exercisable except in pursuance of a notice served under section 144 before that date.
- (2) In this section “the termination date” means the date falling 8 months after the date of the passing of the Housing Act 2004.”
- (2) In section 143(1) of that Act after “sections” insert “ 142A, ”.
- (3) In section 144(1) of that Act for “A secure tenant” substitute “ Subject to section 142A, a secure tenant ”.

#### *Suspension of certain rights in connection with anti-social behaviour*

### **191 Secure tenancies: withholding of consent to mutual exchange**

- (1) In Schedule 3 to the Housing Act 1985 (c. 68) (grounds for withholding consent to assignment by way of exchange) after Ground 2 insert—

#### **“Ground 2A**

Either—

- (a) a relevant order or suspended Ground 2 or 14 possession order is in force, or

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(b) an application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made, in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);

an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);

an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);

an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998; or

an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003.

A “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.

A “Ground 2 or 14 possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.”

- (2) The amendment made by this section applies in relation to applications for consent under section 92 of that Act (assignments by way of exchange) which are made on or after the day on which this section comes into force.

#### **Commencement Information**

**I6** S. 191 wholly in force at 14.7.2005; s. 191 not in force at Royal Assent see s. 270(4)(5); s. 191 in force for E. at 6.6.2005 by [S.I. 2005/1451](#), [art. 2\(b\)](#); s. 191 in force for W. at 14.7.2005 by [S.I. 2005/1814](#), [art. 2\(a\)](#)

## **192 Right to buy: suspension by court order**

- (1) In section 121 of the Housing Act 1985 (circumstances in which right to buy cannot be exercised), after subsection (2) insert—

“(3) The right to buy cannot be exercised at any time during the suspension period under an order made under section 121A in respect of the secure tenancy.”

- (2) After section 121 of that Act insert—

### **“121A Order suspending right to buy because of anti-social behaviour**

- (1) The court may, on the application of the landlord under a secure tenancy, make a suspension order in respect of the tenancy.

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- (2) A suspension order is an order providing that the right to buy may not be exercised in relation to the dwelling-house during such period as is specified in the order (“the suspension period”).
  - (3) The court must not make a suspension order unless it is satisfied—
    - (a) that the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies (anti-social behaviour or use of premises for unlawful purposes), and
    - (b) that it is reasonable to make the order.
  - (4) When deciding whether it is reasonable to make the order, the court must consider, in particular—
    - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the suspension period; and
    - (b) where the conduct mentioned in subsection (3)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
  - (5) Where a suspension order is made—
    - (a) any existing claim to exercise the right to buy in relation to the dwelling-house ceases to be effective as from the beginning of the suspension period, and
    - (b) section 138(1) shall not apply to the landlord, in connection with such a claim, at any time after the beginning of that period, but
    - (c) the order does not affect the computation of any period in accordance with Schedule 4.
  - (6) The court may, on the application of the landlord, make (on one or more occasions) a further order which extends the suspension period under the suspension order by such period as is specified in the further order.
  - (7) The court must not make such a further order unless it is satisfied—
    - (a) that, since the making of the suspension order (or the last order under subsection (6)), the tenant, or a person residing in or visiting the dwelling-house, has engaged or threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 applies, and
    - (b) that it is reasonable to make the further order.
  - (8) When deciding whether it is reasonable to make such a further order, the court must consider, in particular—
    - (a) whether it is desirable for the dwelling-house to be managed by the landlord during the further period of suspension; and
    - (b) where the conduct mentioned in subsection (7)(a) consists of conduct by a person which is capable of causing nuisance or annoyance, the effect that the conduct (or the threat of it) has had on other persons, or would have if repeated.
  - (9) In this section any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.”
- (3) Regulations under—

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- (a) section 171C of that Act (modifications of Part 5 in relation to preserved right to buy), or
- (b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision for continuing the effect of a suspension order where the secure tenancy in respect of which the order was made has been replaced by an assured tenancy.

#### Commencement Information

- I7** S. 192 wholly in force at 25.11.2005; s. 192 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 192 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 192 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

### 193 Right to buy: suspension of landlord's obligation to complete

- (1) In section 138 of the Housing Act 1985 (c. 68) (duty of landlord to convey freehold or grant lease) after subsection (2) insert—

“(2A) Subsection (2B) applies if an application is pending before any court—

- (a) for a demotion order or Ground 2 possession order to be made in respect of the tenant, or
- (b) for a suspension order to be made in respect of the tenancy.

(2B) The landlord is not bound to comply with subsection (1) until such time (if any) as the application is determined without—

- (a) a demotion order or an operative Ground 2 possession order being made in respect of the tenant, or
- (b) a suspension order being made in respect of the tenancy,

or the application is withdrawn.

(2C) For the purposes of subsection (2A) and (2B)—

“demotion order” means a demotion order under section 82A;

“Ground 2 possession order” means an order for possession under Ground 2 in Schedule 2;

“operative Ground 2 possession order” means an order made under that Ground which requires possession of the dwelling-house to be given up on a date specified in the order;

“suspension order” means a suspension order under section 121A.

(2D) Subsection (1) has effect subject to section 121A(5) (disapplication of subsection (1) where suspension order is made).”

- (2) The amendment made by this section does not apply in any case where the tenant's notice under section 122 of that Act (notice claiming to exercise right to buy) was served before the day on which this section comes into force.

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#### Commencement Information

- 18** S. 193 wholly in force at 25.11.2005; s. 193 not in force at Royal Assent see s. 270(4)(5); s. 193 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 193 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

### 194 Disclosure of information as to orders etc. in respect of anti-social behaviour

- (1) Any person may disclose relevant information to a landlord under a secure tenancy if the information is disclosed for the purpose of enabling the landlord—
- (a) to decide whether either of the provisions of the Housing Act 1985 (c. 68) mentioned in subsection (2) can be invoked in relation to the tenant under the tenancy; or
  - (b) to take any appropriate action in relation to the tenant in reliance on either of those provisions.
- (2) The provisions are—
- (a) Ground 2A in Schedule 3 (withholding of consent to mutual exchange where order in force or application pending in connection with anti-social behaviour), and
  - (b) section 138(2B) (landlord's obligation to complete suspended while application pending in connection with such behaviour).
- (3) In this section—
- (a) “relevant information” means information relating to any order or application relevant for the purposes of either of the provisions mentioned in subsection (2), including (in particular) information identifying the person in respect of whom any such order or application has been made;
  - (b) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985; and
  - (c) any reference to the tenant under a secure tenancy is, in relation to a joint tenancy, a reference to any of the joint tenants.
- (4) Regulations under—
- (a) section 171C of the Housing Act 1985 (modifications of Part 5 in relation to preserved right to buy), or
  - (b) section 17 of the Housing Act 1996 (c. 52) (application of that Part in relation to right to acquire dwelling),

may make provision corresponding to subsections (1) to (3) of this section so far as those subsections relate to section 138(2B) of the Housing Act 1985.

#### Commencement Information

- 19** S. 194 wholly in force at 25.11.2005; s. 194 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 194 in force for E. at 6.6.2005 by S.I. 2005/1451, art. 2(b); s. 194 in force for W. at 25.11.2005 by S.I. 2005/3237, art. 2(g)

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## CHAPTER 2

### DISPOSALS ATTRACTING DISCOUNTS OTHER THAN UNDER RIGHT TO BUY

#### *Disposals by local authorities*

#### **195 Repayment of discount: periods and amounts applicable**

- (1) Section 35 of the Housing Act 1985 (repayment of discount on early disposal) is amended in accordance with subsections (2) and (3).
- (2) In subsection (2) for the words from “to pay to the authority” to the end of the subsection substitute “ to the following effect. ”
- (3) After subsection (2) insert—
  - “(3) The covenant shall be to pay to the authority such sum (if any) as the authority may demand in accordance with subsection (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.
  - (4) The authority may demand such sum as they consider appropriate, up to and including the maximum amount specified in this section.
  - (5) The maximum amount which may be demanded by the authority is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 32.
  - (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
  - (7) Subsections (4) to (6) are subject to section 35A.”
- (4) The amendments made by this section do not apply in any case where—
  - (a) the purchaser has accepted an offer for the disposal of the house from the authority, or
  - (b) the authority has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions—
  - (a) section 35(2) of the Housing Act 1985 (c. 68) (as it has effect without the amendments made by this section), and
  - (b) any covenant for repayment of discount,
 any reference (however expressed) to a person being liable to pay an amount to the authority on demand is to be read as a reference to his being liable to pay to the authority so much of that amount (if any) as the authority may demand.

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- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 35 of that Act.

## **196 Repayment of discount: increase attributable to home improvements to be disregarded**

After section 35 of the Housing Act 1985 insert—

### **“35A Increase in value of house attributable to home improvements**

- (1) In calculating the maximum amount which may be demanded by the authority under section 35, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance, grant or assignment and before the disposal, shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
  - (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.”

## **197 Local authority’s right of first refusal**

(1) After section 36 of the Housing Act 1985 (c. 68) insert—

### **“36A Right of first refusal for local authority**

- (1) This section applies where, on a disposal of a house under section 32, a discount is given to the purchaser by the local authority in accordance with a consent given by the Secretary of State under subsection (2) of that section; but this section does not apply in any such case if the consent so provides.
- (2) On the disposal the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.

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*Status: Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*

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- (4) In subsection (3) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a local authority which have made a disposal as mentioned in subsection (1), or
  - (b) such other person as is determined in accordance with the regulations, a right of first refusal to have a disposal within subsection (6) made to them or him for such consideration as is mentioned in section 36B.
- (6) The disposals within this subsection are—
- (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (7) Regulations under this section may, in particular, make provision—
- (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
  - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (8) In subsection (7) any reference to the purchaser is a reference to the purchaser or his successor in title.
- Nothing in that subsection affects the generality of subsection (5).
- (9) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.



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*Status: Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*

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- (10) The limitation imposed by a covenant within subsection (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

### **36B Consideration payable for disposal under section 36A**

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 36A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).
  - (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 35 (repayment of discount on early disposal) would be discharged by the vendor.
  - (3) If the offer is accepted in accordance with regulations under section 36A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
  - (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 36A).”
- (2) In section 33(2) of the Housing Act 1985 (c. 68) (covenants and conditions which may be imposed), after “But” insert “, subject to sections 36A and 37, ”.
  - (3) In section 37(1) of that Act (restriction on disposal of dwelling-houses in National Parks etc.), after “restriction on assignment)” insert “ or a covenant as mentioned in section 36A(3) (right of first refusal for local authority) ”.
  - (4) In section 41 of that Act (exempted disposals which end liability under covenants), after paragraph (a) insert—
    - “(aa) the covenant required by section 36A (right of first refusal for local authority) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant ceases to apply in relation to the property disposed of, and”.
  - (5) The amendments made by this section do not apply in relation to a disposal under section 32 of that Act if—
    - (a) the purchaser has accepted an offer for the disposal of the house from the authority, or
    - (b) the authority has accepted an offer for the disposal of the house from the purchaser,

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before the day on which this section comes into force.

#### Commencement Information

**I10** S. 197 wholly in force at 18.1.2005; s. 197 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 198 Deferred resale agreements

(1) After section 39 of the Housing Act 1985 insert—

### “39A Treatment of deferred resale agreements for purposes of section 35

- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 35 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
  - (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—
  - (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 32,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
  - (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
  - (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
  - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
  - (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—

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“agreement” includes arrangement;

“the discount repayment period” means the period of 3 years that applies for the purposes of section 35(2) or the period of five years that applies for the purposes of section 35(3) (depending on whether an offer such as is mentioned in section 195(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).”

- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

#### Commencement Information

**III** [S. 198](#) wholly in force at 18.1.2005; [s. 198](#) in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see [s. 270\(2\)\(b\)\(3\)\(a\)](#)

### *Disposals by registered social landlords*

## **199 Repayment of discount: periods and amounts payable**

- (1) For section 11 of the Housing Act 1996 (c. 52) substitute—

### **“11 Covenant for repayment of discount on disposal**

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain a covenant binding on the purchaser and his successors in title to the following effect.
- (2) The covenant shall be to pay to the landlord such sum (if any) as the landlord may demand in accordance with subsection (3) on the occasion of the first relevant disposal which is not an exempted disposal and which takes place within the period of five years beginning with the conveyance, grant or assignment.
- (3) The landlord may demand such sum as he considers appropriate, up to and including the maximum amount specified in this section.
- (4) The maximum amount which may be demanded by the landlord is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house by the landlord.
- (5) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the landlord is reduced by one-fifth.
- (6) Subsections (3) to (5) are subject to section 11A.

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### **11A Increase in value of house attributable to home improvements to be disregarded**

- (1) In calculating the maximum amount which may be demanded by the landlord under section 11, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance, grant or assignment and before the disposal,
 shall be disregarded.
- (2) The amount to be disregarded under this section shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this section to make a determination for the purposes of this section unless—
  - (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this section (and in default of an agreement), no amount is required to be disregarded under this section.

### **11B Liability to repay is a charge on the house**

- (1) The liability that may arise under the covenant required by section 11 is a charge on the house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.
- (2) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, etc.)—
  - (a) the covenant required by section 11 is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant and the charge taking effect by virtue of this section cease to apply in relation to the property disposed of.”
- (2) In section 12, for “section 11” in each place where it occurs substitute “ section 11B ”.
- (3) The amendments made by this section do not apply in any case where—
  - (a) the purchaser has accepted an offer for the disposal of the house from the landlord, or
  - (b) the landlord has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.
- (4) Subsection (5), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (5) In the following provisions—

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- (a) section 11(2) of the Housing Act 1996 (c. 52) (as it has effect without the amendments made by this section), and
  - (b) any covenant for repayment of discount,
- any reference (however expressed) to a person being liable to pay an amount to the landlord on demand is to be read as a reference to his being liable to pay to the landlord so much of that amount (if any) as the landlord may demand.
- (6) In subsections (4) and (5) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with section 11 of that Act.

## **200 Registered social landlord’s right of first refusal**

- (1) After section 12 of the Housing Act 1996 insert—

### **“12A Right of first refusal for registered social landlord**

- (1) Where on a disposal of a house by a registered social landlord, in accordance with a consent given by the Relevant Authority under section 9, a discount has been given to the purchaser, and the consent does not provide otherwise, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.
- (2) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (3) In subsection (2) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (4) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
  - (a) a registered social landlord which has made a disposal as mentioned in subsection (1), or
  - (b) such other person as is determined in accordance with the regulations, a right of first refusal to have a disposal within subsection (5) made to him for such consideration as is mentioned in section 12B.
- (5) The disposals within this subsection are—
  - (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (6) Regulations under this section may, in particular, make provision—
  - (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient

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- considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
- (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (7) In subsection (6) any reference to the purchaser is a reference to the purchaser or his successor in title.
- Nothing in that subsection affects the generality of subsection (4).
- (8) Regulations under this section—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The limitation imposed by a covenant within subsection (2) is a local land charge.
- (10) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.
- (11) Where there is a relevant disposal which is an exempted disposal by virtue of section 15(4)(d) or (e) (compulsory disposal or disposal of yard, garden, &c)—
- (a) the covenant required by this section is not binding on the person to whom the disposal is made or any successor in title of his, and
  - (b) the covenant ceases to apply in relation to the property disposed of.

### **12B Consideration payable for disposal under section 12A**

- (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in section 12A(4) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that section).
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by section 11 (repayment of discount on early disposal) would be discharged by the vendor.

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- (3) If the offer is accepted in accordance with regulations under section 12A, no payment shall be required in pursuance of any such covenant as is mentioned in subsection (2), but the consideration shall be reduced, subject to subsection (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
- (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in subsection (2), the consideration shall not be reduced under subsection (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under section 12A).”
- (2) In section 13(1) of the Housing Act 1996 (c. 52) (restriction on disposal of houses in National Parks, &c), after “restriction on assignment)” insert “ or a covenant as mentioned in section 12A(2) of this Act (right of first refusal for registered social landlord) ”.
- (3) The amendments made by this section do not apply in relation to a disposal under section 8 of that Act if—
- the purchaser has accepted an offer for the disposal of the house from the landlord, or
  - the landlord has accepted an offer for the disposal of the house from the purchaser,
- before the day on which this section comes into force.

#### Commencement Information

**I12** S. 200 wholly in force at 18.1.2005; s. 200 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 201 Deferred resale agreements

- (1) After section 15 of the Housing Act 1996 insert—

### “15A Treatment of deferred resale agreements for purposes of section 11

- (1) If a purchaser or his successor in title enters into an agreement within subsection (3), any liability arising under the covenant required by section 11 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In subsection (1) “the appropriate time” means—
- the time when the agreement is entered into, or
  - if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this subsection if it is an agreement between the purchaser or his successor in title and any other person—

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- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, by virtue of section 8,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal which is not an exempted disposal is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within subsection (3)—
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
- (a) for subsection (1) to apply to agreements of any description specified in the order in addition to those within subsection (3);
  - (b) for subsection (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under subsection (5)—
- (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- “agreement” includes arrangement;
  - “the discount repayment period” means the period of three or five years that applies for the purposes of section 11(2) (depending on whether an offer such as is mentioned in section 199(3) of the Housing Act 2004 was made before or on or after the coming into force of that section).”
- (2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

**Commencement Information**

**I13** S. 201 wholly in force at 18.1.2005; s. 201 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

**202 Right of assured tenant to acquire dwelling not affected by collective enfranchisement**

- (1) Section 16 of the Housing Act 1996 (c. 52) (right of assured tenant of registered social landlord to acquire dwelling) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) In subsection (3)(a) the reference to the freehold interest in the dwelling includes a reference to such an interest in the dwelling as is held by the



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landlord under a lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 (mandatory leaseback to former freeholder on collective enfranchisement).”

- (3) The amendment made by subsection (2) applies in relation to the right conferred by section 16 as follows—
- (a) it applies for the purposes of any exercise of that right on or after the day on which this section comes into force, and
  - (b) it so applies whether the lease granted in pursuance of paragraph 3 of Schedule 9 to the Leasehold Reform, Housing and Urban Development Act 1993 was granted on or after that day or before it.

#### *Disposals by housing action trusts*

### **203 Repayment of discount: periods and amounts payable**

- (1) Schedule 11 to the Housing Act 1988 (c. 50) (provisions applicable to certain disposals of houses) is amended as follows.
- (2) In paragraph 1(2) for the words from “to pay to the housing action trust” to the end of the sub-paragraph substitute “to the following effect. ”
- (3) After paragraph 1(2) insert—
  - “(3) The covenant shall be to pay to the housing action trust such sum (if any) as the trust may demand in accordance with sub-paragraph (4) on the occasion of the first relevant disposal (other than an exempted disposal) which takes place within the period of five years beginning with the conveyance, grant or assignment.
  - (4) The trust may demand such sum as it considers appropriate, up to and including the maximum amount specified in this paragraph.
  - (5) The maximum amount which may be demanded by the trust is a percentage of the price or premium paid for the first relevant disposal which is equal to the percentage discount given to the purchaser in respect of the disposal of the house under section 79.
  - (6) But for each complete year which has elapsed after the conveyance, grant or assignment and before the first relevant disposal the maximum amount which may be demanded by the trust is reduced by one-fifth.
  - (7) Sub-paragraphs (4) to (6) are subject to paragraph 1A.

#### **1A Increase in value of house attributable to home improvements**

- (1) In calculating the maximum amount which may be demanded by the housing action trust under paragraph 1, such amount (if any) of the price or premium paid for the first relevant disposal which is attributable to improvements made to the house—
  - (a) by the person by whom the disposal is, or is to be, made, and
  - (b) after the conveyance, grant or assignment and before the disposal, shall be disregarded.

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- (2) The amount to be disregarded under this paragraph shall be such amount as may be agreed between the parties or determined by the district valuer.
- (3) The district valuer shall not be required by virtue of this paragraph to make a determination for the purposes of this paragraph unless—
  - (a) it is reasonably practicable for him to do so; and
  - (b) his reasonable costs in making the determination are paid by the person by whom the disposal is, or is to be, made.
- (4) If the district valuer does not make a determination for the purposes of this paragraph (and in default of an agreement), no amount is required to be disregarded under this paragraph.”
- (4) The amendments made by this section do not apply in any case where—
  - (a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or
  - (b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,
 before the day on which this section comes into force.
- (5) Subsection (6), however, applies in any such case if the first relevant disposal by the purchaser to which the covenant for repayment of discount applies takes place on or after the day on which this section comes into force.
- (6) In the following provisions—
  - (a) paragraph 1(2) of Schedule 11 to the Housing Act 1988 (c. 50) (as it has effect without the amendments made by this section), and
  - (b) any covenant for repayment of discount,
 any reference (however expressed) to a person being liable to pay an amount to the housing action trust on demand is to be read as a reference to his being liable to pay to the trust so much of that amount (if any) as the trust may demand.
- (7) In subsections (5) and (6) “covenant for repayment of discount” means the covenant contained in a conveyance, grant or assignment in accordance with paragraph 1 of Schedule 11 to that Act.

## **204 Housing action trust’s right of first refusal**

- (1) After paragraph 2 of Schedule 11 to the Housing Act 1988 insert—

### **“Right of first refusal for housing action trust**

- 2A (1) This paragraph applies where, on the disposal of a house under section 79 of this Act, a discount is given to the purchaser by the housing action trust in accordance with a consent given by the Secretary of State under subsection (1) of that section and that consent does not exclude the application of this paragraph.
- (2) On the disposal, the conveyance, grant or assignment shall contain the following covenant, which shall be binding on the purchaser and his successors in title.

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- (3) The covenant shall be to the effect that, until the end of the period of ten years beginning with the conveyance, grant or assignment, there will be no relevant disposal which is not an exempted disposal, unless the prescribed conditions have been satisfied in relation to that or a previous such disposal.
- (4) In sub-paragraph (3) “the prescribed conditions” means such conditions as are prescribed by regulations under this section at the time when the conveyance, grant or assignment is made.
- (5) The Secretary of State may by regulations prescribe such conditions as he considers appropriate for and in connection with conferring on—
- (a) a housing action trust which has made a disposal as mentioned in sub-paragraph (1), or
  - (b) such other person as is determined in accordance with the regulations,
- a right of first refusal to have a disposal within sub-paragraph (6) made to him for such consideration as is mentioned in paragraph 2B.
- (6) The disposals within this sub-paragraph are—
- (a) a reconveyance or conveyance of the house; and
  - (b) a surrender or assignment of the lease.
- (7) Regulations under this paragraph may, in particular, make provision—
- (a) for the purchaser to offer to make such a disposal to such person or persons as may be prescribed;
  - (b) for a prescribed recipient of such an offer to be able either to accept the offer or to nominate some other person as the person by whom the offer may be accepted;
  - (c) for the person who may be so nominated to be either a person of a prescribed description or a person whom the prescribed recipient considers, having regard to any prescribed matters, to be a more appropriate person to accept the offer;
  - (d) for a prescribed recipient making such a nomination to give a notification of the nomination to the person nominated, the purchaser and any other prescribed person;
  - (e) for authorising a nominated person to accept the offer and for determining which acceptance is to be effective where the offer is accepted by more than one person;
  - (f) for the period within which the offer may be accepted or within which any other prescribed step is to be, or may be, taken;
  - (g) for the circumstances in which the right of first refusal lapses (whether following the service of a notice to complete or otherwise) with the result that the purchaser is able to make a disposal on the open market;
  - (h) for the manner in which any offer, acceptance or notification is to be communicated.
- (8) In sub-paragraph (7) any reference to the purchaser is a reference to the purchaser or his successor in title.

Nothing in that sub-paragraph affects the generality of sub-paragraph (5).

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- (9) Regulations under this paragraph—
  - (a) may make different provision with respect to different cases or descriptions of case; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The limitation imposed by a covenant within sub-paragraph (3) is a local land charge.
- (11) The Chief Land Registrar must enter in the register of title a restriction reflecting the limitation imposed by any such covenant.

### **Consideration payable for disposal under paragraph 2A**

- 2B (1) The consideration for a disposal made in respect of a right of first refusal as mentioned in paragraph 2A(5) shall be such amount as may be agreed between the parties, or determined by the district valuer, as being the amount which is to be taken to be the value of the house at the time when the offer is made (as determined in accordance with regulations under that paragraph).
- (2) That value shall be taken to be the price which, at that time, the interest to be reconveyed, conveyed, surrendered or assigned would realise if sold on the open market by a willing vendor, on the assumption that any liability under the covenant required by paragraph 1 (repayment of discount on early disposal) would be discharged by the vendor.
- (3) If the offer is accepted in accordance with regulations under paragraph 2A, no payment shall be required in pursuance of any such covenant as is mentioned in sub-paragraph (2), but the consideration shall be reduced, subject to sub-paragraph (4), by such amount (if any) as, on a disposal made at the time the offer was made, being a relevant disposal which is not an exempted disposal, would fall to be paid under that covenant.
- (4) Where there is a charge on the house having priority over the charge to secure payment of the sum due under the covenant mentioned in sub-paragraph (2), the consideration shall not be reduced under sub-paragraph (3) below the amount necessary to discharge the outstanding sum secured by the first-mentioned charge at the date of the offer (as determined in accordance with regulations under paragraph 2A).”
- (2) In paragraph 6 of Schedule 11 to that Act (exempted disposals ending obligation under covenants), at the end of paragraph (b) insert “and
  - (c) the covenant required by paragraph 2A above is not binding on the person to whom the disposal is made or any successor in title of his; and
  - (d) that covenant ceases to apply in relation to the property disposed of.”
- (3) The amendments made by this section do not apply in relation to a disposal under section 79 of that Act if—
  - (a) the purchaser has accepted an offer for the disposal of the house from the housing action trust, or

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- (b) the housing action trust has accepted an offer for the disposal of the house from the purchaser,  
before the day on which this section comes into force.

#### Commencement Information

**I14** S. 204 wholly in force at 18.1.2005; s. 204 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## 205 Deferred resale agreements

- (1) After paragraph 7 of Schedule 11 to the Housing Act 1988 (c. 50) insert—

### “Treatment of deferred resale agreements

- 8 (1) If a purchaser or his successor in title enters into an agreement within sub-paragraph (3), any liability arising under the covenant required by paragraph 1 shall be determined as if a relevant disposal which is not an exempted disposal had occurred at the appropriate time.
- (2) In sub-paragraph (1) “the appropriate time” means—
- (a) the time when the agreement is entered into, or
  - (b) if it was made before the beginning of the discount repayment period, immediately after the beginning of that period.
- (3) An agreement is within this sub-paragraph if it is an agreement between the purchaser or his successor in title and any other person—
- (a) which is made (expressly or impliedly) in contemplation of, or in connection with, a disposal to be made, or made, under section 79,
  - (b) which is made before the end of the discount repayment period, and
  - (c) under which a relevant disposal (other than an exempted disposal) is or may be required to be made to any person after the end of that period.
- (4) Such an agreement is within sub-paragraph (3)—
- (a) whether or not the date on which the relevant disposal is to take place is specified in the agreement, and
  - (b) whether or not any requirement to make that disposal is or may be made subject to the fulfilment of any condition.
- (5) The Secretary of State may by order provide—
- (a) for sub-paragraph (1) to apply to agreements of any description specified in the order in addition to those within sub-paragraph (3);
  - (b) for sub-paragraph (1) not to apply to agreements of any description so specified to which it would otherwise apply.
- (6) An order under sub-paragraph (5)—
- (a) may make different provision with respect to different cases or descriptions of case; and

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(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this paragraph—

“agreement” includes arrangement;

“the discount repayment period” means the period of 3 years that applies for the purposes of paragraph 1(2) or the period of five years that applies for the purposes of paragraph 1(3) (depending on whether an offer such as is mentioned in section 203(4) of the Housing Act 2004 was made before or on or after the coming into force of that section).”

(2) The amendment made by this section does not apply in relation to any agreement or arrangement made before the day on which this section comes into force.

#### **Commencement Information**

**I15** S. 205 wholly in force at 18.1.2005; s. 205 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## **CHAPTER 3**

### MOBILE HOMES

#### *Site agreements*

#### **206 Particulars of site agreements to be given in advance**

(1) For section 1 of the Mobile Homes Act 1983 (c. 34) (particulars of agreements between site owners and occupiers of mobile homes) substitute—

##### **“1 Particulars of agreements**

- (1) This Act applies to any agreement under which a person (“the occupier”) is entitled—
  - (a) to station a mobile home on land forming part of a protected site; and
  - (b) to occupy the mobile home as his only or main residence.
- (2) Before making an agreement to which this Act applies, the owner of the protected site (“the owner”) shall give to the proposed occupier under the agreement a written statement which—
  - (a) specifies the names and addresses of the parties;
  - (b) includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
  - (c) sets out the express terms to be contained in the agreement;
  - (d) sets out the terms to be implied by section 2(1) below; and

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- (e) complies with such other requirements as may be prescribed by regulations made by the appropriate national authority.
- (3) The written statement required by subsection (2) above must be given—
- (a) not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
  - (b) (if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.
- (4) But if the proposed occupier consents in writing to that statement being given to him by a date (“the chosen date”) which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.
- (5) If any express term—
- (a) is contained in an agreement to which this Act applies, but
  - (b) was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,
- the term is unenforceable by the owner or any person within section 3(1) below.
- This is subject to any order made by the court under section 2(3) below.
- (6) If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—
- (a) to give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and
  - (b) to do so not later than such date as is specified in the order.
- (7) A statement required to be given to a person under this section may be either delivered to him personally or sent to him by post.
- (8) Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.
- (9) Regulations under this section—
- (a) shall be made by statutory instrument;
  - (b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (c) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.”
- (2) Section 2 of that Act (terms of agreements) is amended as follows—
- (a) in subsection (2), for “within six months of the giving of the statement under section 1(2) above” substitute “ within the relevant period ”; and
  - (b) for subsection (3) substitute—
- “(3) The court may, on the application of either party made within the relevant period, make an order—
- (a) varying or deleting any express term of the agreement;

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- (b) in the case of any express term to which section 1(6) above applies, provide for the term to have full effect or to have such effect subject to any variation specified in the order.
- (3A) In subsections (2) and (3) above “the relevant period” means the period beginning with the date on which the agreement is made and ending—
- (a) six months after that date, or
  - (b) where a written statement relating to the agreement is given to the occupier after that date (whether or not in compliance with an order under section 1(6) above), six months after the date on which the statement is given;
- and section 1(8) above applies for the purposes of this subsection as it applies for the purposes of section 1.”
- (3) In section 5(1) of that Act (interpretation) insert at the appropriate place—
- ““the appropriate national authority” means—
- (a) in relation to England, the Secretary of State, and
  - (b) in relation to Wales, the National Assembly for Wales;”.
- (4) The amendments made by subsections (1) and (2) do not apply in relation to an agreement to which that Act applies where—
- (a) the agreement, or
  - (b) (if it becomes one to which that Act applies as the result of any variation of it) the variation in question,
- is made before the end of the period of 28 days beginning with the day on which those subsections come into force.
- (5) The new section 1(9)(b) inserted by subsection (1) does not affect the continuing validity of any regulations made under section 1 of that Act before the passing of this Act.

#### **Commencement Information**

**I16** S. 206 wholly in force at 18.1.2005; s. 206 in force for certain purposes at Royal Assent and in force otherwise at 18.1.2005, see s. 270(2)(b)(3)(a)

## **207 Implied terms relating to termination of agreements or disposal of mobile homes**

- (1) Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) (terms implied in site agreements) is amended as follows.
- (2) In paragraph 6 (termination by owner on ground of detrimental effect resulting from age and condition of mobile home)—
  - (a) omit “age and”; and
  - (b) after sub-paragraph (2) insert—
    - “(3) Sub-paragraphs (4) and (5) below apply if, on an application under sub-paragraph (1) above—



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- (a) the court considers that, having regard to the present condition of the mobile home, paragraph (a) or (b) of that sub-paragraph applies to it, but
  - (b) it also considers that it would be reasonably practicable for particular repairs to be carried out on the mobile home that would result in neither of those paragraphs applying to it, and
  - (c) the occupier indicates that he intends to carry out those repairs.
- (4) In such a case the court may make an order adjourning proceedings on the application for such period specified in the order as the court considers reasonable to allow the repairs to be carried out.

The repairs must be set out in the order.
- (5) If the court makes such an order, the application shall not be further proceeded with unless the court is satisfied that the specified period has expired without the repairs having been carried out.”
- (3) In paragraph 8 (sale of mobile home to person approved by owner)—
  - (a) after sub-paragraph (1) insert—
    - “(1A) The occupier may serve on the owner a request for the owner to approve a person for the purposes of sub-paragraph (1) above.
    - (1B) Where the owner receives such a request, he must, within the period of 28 days beginning with the date on which he received the request—
      - (a) approve the person, unless it is reasonable for him not to do so, and
      - (b) serve on the occupier notice of his decision whether or not to approve the person.
    - (1C) A notice under sub-paragraph (1B) above must specify—
      - (a) if the approval is given subject to conditions, the conditions, and
      - (b) if the approval is withheld, the reasons for withholding it.
    - (1D) The giving of approval subject to any condition that is not a reasonable condition does not satisfy the requirement in sub-paragraph (1B)(a) above.
    - (1E) If the owner fails to notify the occupier as required by sub-paragraphs (1B) and (1C) above, the occupier may apply to the court for an order declaring that the person is approved for the purposes of sub-paragraph (1) above; and the court may make such an order if it thinks fit.
    - (1F) It is for the owner—
      - (a) if he served a notice as mentioned in sub-paragraphs (1B) and (1C) and the question arises whether he served the notice within the required period of 28 days, to show that he did;
      - (b) if he gave his approval subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was;

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- (c) if he did not give his approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable.
- (1G) A request or notice under this paragraph—
    - (a) must be in writing, and
    - (b) may be served by post.”;
  - (b) in sub-paragraph (2) for “the Secretary of State” substitute “ the appropriate national authority ”; and
  - (c) in sub-paragraph (3)(a) after “which” insert “ (if made by the Secretary of State) ”.
- (4) After the existing provisions of paragraph 9 (gift of mobile home to person approved by owner), which become sub-paragraph (1), insert—
- “(2) Sub-paragraphs (1A) to (1G) of paragraph 8 above shall apply in relation to the approval of a person for the purposes of sub-paragraph (1) above as they apply in relation to the approval of a person for the purposes of sub-paragraph (1) of that paragraph.”
- (5) After Part 2 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) insert—

### “PART 3

#### SUPPLEMENTARY PROVISIONS

##### **Duty to forward requests under paragraph 8 or 9 of Part 1**

- 1 (1) This paragraph applies to—
- (a) a request by the occupier for the owner to approve a person for the purposes of paragraph 8(1) of Part 1 (see paragraph 8(1A)), or
  - (b) a request by the occupier for the owner to approve a person for the purposes of paragraph 9(1) of Part 1 (see paragraph 8(1A) as applied by paragraph 9(2)).
- (2) If a person (“the recipient”) receives such a request and he—
- (a) though not the owner, has an estate or interest in the protected site, and
  - (b) believes that another person is the owner (and that the other person has not received such a request),
- the recipient owes a duty to the occupier to take such steps as are reasonable to secure that the other person receives the request within the period of 28 days beginning with the date on which the recipient receives it.
- (3) In paragraph 8(1B) of Part 1 of this Schedule (as it applies to any request within sub-paragraph (1) above) any reference to the owner receiving such a request includes a reference to his receiving it in accordance with sub-paragraph (2) above.

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### **Action for breach of duty under paragraph 1**

- 2 (1) A claim that a person has broken the duty under paragraph 1(2) above may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.
- (2) The right conferred by sub-paragraph (1) is in addition to any right to bring proceedings, in respect of a breach of any implied term having effect by virtue of paragraph 8 or 9 of Part 1 of this Schedule, against a person bound by that term.”
- (6) The amendments made by this section apply in relation to an agreement to which the Mobile Homes Act 1983 applies that was made before the day on which this section comes into force (“the appointed day”), as well as in relation to one made on or after that day.
- Any reference in this subsection to the making of an agreement to which that Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which that Act applies.
- (7) However—
- (a) the amendments made by subsection (2) do not apply in relation to any application made before the appointed day for the purposes of paragraph 6 of Part 1 of Schedule 1 to that Act; and
  - (b) the amendments made by subsections (3)(a), (4) and (5) do not apply in relation to any request for approval made before the appointed day for the purposes of paragraph 8(1) or (as the case may be) 9(1) of that Part of that Schedule.

## **208 Power to amend terms implied in site agreements**

- (1) After section 2 of the Mobile Homes Act 1983 (c. 34) insert—

### **“2A Power to amend implied terms**

- (1) The appropriate national authority may by order make such amendments of Part 1 or 2 of Schedule 1 to this Act as the authority considers appropriate.
- (2) An order under this section—
- (a) shall be made by statutory instrument;
  - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas;
  - (c) may contain such incidental, supplementary, consequential, transitional or saving provisions as the authority making the order considers appropriate.
- (3) Without prejudice to the generality of subsections (1) and (2), an order under this section may—
- (a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;

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- (b) make such amendments of any provision of this Act as the authority making the order considers appropriate in consequence of any amendment made by the order in Part 1 or 2 of Schedule 1.
- (4) The first order made under this section in relation to England or Wales respectively may provide for all or any of its provisions to apply in relation to agreements to which this Act applies that were made at any time before the day on which the order comes into force (as well as in relation to such agreements made on or after that day).
- (5) No order may be made by the appropriate national authority under this section unless the authority has consulted—
  - (a) such organisations as appear to it to be representative of interests substantially affected by the order; and
  - (b) such other persons as it considers appropriate.
- (6) No order may be made by the Secretary of State under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) For the purposes of subsection (5) of the section 2A inserted by this section, consultation undertaken before the date of the passing of this Act constitutes as effective compliance with that subsection as if undertaken on or after that date.

*Protection from eviction etc.*

## 209 Protected sites to include sites for gypsies

- [<sup>F3</sup>(1) Section 1 of the Caravan Sites Act 1968 (c. 52) (application of provisions for protection of residential occupiers of caravan sites) is amended as follows.
- (2) In subsection (2) (under which “protected site” includes certain local authority sites) for “paragraph 11 of Schedule 1 to that Act (exemption of land occupied by local authorities) substitute “paragraph 11 or 11A of Schedule 1 to that Act (exemption of gypsy and other local authority sites)”.
- (3) The amendment made by subsection (2) above does not affect the operation of—
  - (a) section 2 of the Act (minimum length of notice) in relation to any notice given before the day on which this section comes into force, or
  - (b) section 3 of the Act (protection from eviction) in relation to any conduct occurring before that day, or
  - (c) section 4 of the Act (suspension of eviction orders) in relation to any proceedings begun before that day.
- (4) In subsection (3)(b) the reference to section 3 of the Act is to that section whether as amended by section 210 of this Act or otherwise.]

### Textual Amendments

**F3** Ss. 209-211 repealed (S.) (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), ss. 192(2), 195(3), [Sch. 7](#) (with ss. 193, 194(7)); S.S.I. 2009/122, [art. 3](#)

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## 210 Extension of protection from harassment for occupiers of mobile homes

- [<sup>F4</sup>(1) Section 3 of the Caravan Sites Act 1968 (protection of occupiers against eviction and harassment) is amended as follows.
- (2) In subsection (1) (offence where person, with the specified intent, does acts calculated to interfere with the peace or comfort of the occupier etc.) for “calculated to interfere” substitute “likely to interfere”.
- (3) After subsection (1) insert—
- “(1A) Subject to the provisions of this section, the owner of a protected site or his agent shall be guilty of an offence under this section if, whether during the subsistence or after the expiration or determination of a residential contract—
- (a) he does acts likely to interfere with the peace or comfort of the occupier or persons residing with him, or
- (b) he persistently withdraws or withholds services or facilities reasonably required for the occupation of the caravan as a residence on the site,
- and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the occupier to do any of the things mentioned in subsection (1)(c)(i) or (ii) of this section.
- (1B) References in subsection (1A) of this section to the owner of a protected site include references to a person with an estate or interest in the site which is superior to that of the owner.”
- (4) In subsection (3) (penalties for offences), for the words from “be liable” onwards substitute
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.”
- (5) After subsection (4) insert—
- “(4A) In proceedings for an offence under subsection (1A) of this section it shall be a defence to prove that the accused had reasonable grounds for doing the acts or withdrawing or withholding the services or facilities in question.”
- (6) The amendments made by this section do not apply in relation to any conduct occurring before the day on which this section comes into force.
- (7) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the amendment made by subsection (4) has effect as if for “12 months” there were substituted “6 months”.]

### Textual Amendments

- F4** Ss. 209-211 repealed (S.) (1.4.2009) by Housing (Scotland) Act 2006 (asp 1), ss. 192(2), 195(3), Sch. 7 (with ss. 193, 194(7)); S.S.I. 2009/122, art. 3

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## 211 Suspension of eviction orders

- [<sup>F5</sup>(1) In section 4(6) of the Caravan Sites Act 1968 (c. 52) (provision for suspension of eviction orders) for the words from “in the following cases” to the end of paragraph (b) substitute
- (a) no site licence under Part 1 of that Act is in force in respect of the site, and
  - (b) paragraph 11 or 11A of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (c. 2) does not apply;”.
- (2) The amendment made by subsection (1) does not apply in relation to proceedings begun before the day on which this section comes into force.]

### Textual Amendments

**F5** Ss. 209-211 repealed (S.) (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), ss. 192(2), 195(3), [Sch. 7](#) (with ss. 193, 194(7)); S.S.I. 2009/122, [art. 3](#)

## CHAPTER 4

### TENANCY DEPOSIT SCHEMES

## 212 Tenancy deposit schemes

- (1) The appropriate national authority must make arrangements for securing that one or more tenancy deposit schemes are available for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies.
- (2) For the purposes of this Chapter a “tenancy deposit scheme” is a scheme which—
  - (a) is made for the purpose of safeguarding tenancy deposits paid in connection with shorthold tenancies and facilitating the resolution of disputes arising in connection with such deposits, and
  - (b) complies with the requirements of Schedule 10.
- (3) Arrangements under subsection (1) must be arrangements made with any body or person under which the body or person (“the scheme administrator”) undertakes to establish and maintain a tenancy deposit scheme of a description specified in the arrangements.
- (4) The appropriate national authority may—
  - (a) give financial assistance to the scheme administrator;
  - (b) make payments to the scheme administrator (otherwise than as financial assistance) in pursuance of arrangements under subsection (1).
- (5) The appropriate national authority may, in such manner and on such terms as it thinks fit, guarantee the discharge of any financial obligation incurred by the scheme administrator in connection with arrangements under subsection (1).
- (6) Arrangements under subsection (1) must require the scheme administrator to give the appropriate national authority, in such manner and at such times as it may specify, such information and facilities for obtaining information as it may specify.

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*Status: Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*  
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- (7) The appropriate national authority may make regulations conferring or imposing—
- (a) on scheme administrators, or
  - (b) on scheme administrators of any description specified in the regulations,
- such powers or duties in connection with arrangements under subsection (1) as are so specified.
- (8) In this Chapter—
- “authorised”, in relation to a tenancy deposit scheme, means that the scheme is in force in accordance with arrangements under subsection (1);
- “custodial scheme” and “insurance scheme” have the meaning given by paragraph 1(2) and (3) of Schedule 10);
- “money” means money in the form of cash or otherwise;
- “shorthold tenancy” means an assured shorthold tenancy within the meaning of Chapter 2 of Part 1 of the Housing Act 1988 (c. 50);
- “tenancy deposit”, in relation to a shorthold tenancy, means any money intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant, or
  - (b) the discharge of any liability of his,
- arising under or in connection with the tenancy.
- (9) In this Chapter—
- (a) references to a landlord or landlords in relation to any shorthold tenancy or tenancies include references to a person or persons acting on his or their behalf in relation to the tenancy or tenancies, and
  - (b) references to a tenancy deposit being held in accordance with a scheme include, in the case of a custodial scheme, references to an amount representing the deposit being held in accordance with the scheme.

#### Commencement Information

- I17** S. 212 wholly in force at 6.4.2007; s. 212 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 212 in force for W. at 6.4.2007 by [S.I. 2007/305](#), [art. 2](#); s. 212 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), [art. 2\(a\)](#)

## 213 Requirements relating to tenancy deposits

- (1) Any tenancy deposit paid to a person in connection with a shorthold tenancy must, as from the time when it is received, be dealt with in accordance with an authorised scheme.
- (2) No person may require the payment of a tenancy deposit in connection with a shorthold tenancy which is not to be subject to the requirement in subsection (1).
- (3) Where a landlord receives a tenancy deposit in connection with a shorthold tenancy, the initial requirements of an authorised scheme must be complied with by the landlord in relation to the deposit within the period of [<sup>F6</sup> 30 ] days beginning with the date on which it is received.

*Status: Point in time view as at 22/04/2014. This version of this part contains provisions that are prospective.*

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- (4) For the purposes of this section “the initial requirements” of an authorised scheme are such requirements imposed by the scheme as fall to be complied with by a landlord on receiving such a tenancy deposit.
- (5) A landlord who has received such a tenancy deposit must give the tenant and any relevant person such information relating to—
- (a) the authorised scheme applying to the deposit,
  - (b) compliance by the landlord with the initial requirements of the scheme in relation to the deposit, and
  - (c) the operation of provisions of this Chapter in relation to the deposit,
- as may be prescribed.
- (6) The information required by subsection (5) must be given to the tenant and any relevant person—
- (a) in the prescribed form or in a form substantially to the same effect, and
  - (b) within the period of [<sup>F7</sup> 30 ] days beginning with the date on which the deposit is received by the landlord.
- (7) No person may, in connection with a shorthold tenancy, require a deposit which consists of property other than money.
- (8) In subsection (7) “deposit” means a transfer of property intended to be held (by the landlord or otherwise) as security for—
- (a) the performance of any obligations of the tenant, or
  - (b) the discharge of any liability of his,
- arising under or in connection with the tenancy.
- (9) The provisions of this section apply despite any agreement to the contrary.
- (10) In this section—
- “prescribed” means prescribed by an order made by the appropriate national authority;
- “property” means moveable property;
- “relevant person” means any person who, in accordance with arrangements made with the tenant, paid the deposit on behalf of the tenant.

#### Textual Amendments

- F6** Word in s. 213(3) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(2)(a)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), **arts. 2, 4**)
- F7** Word in s. 213(6)(b) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(2)(b)**, 240(2); [S.I. 2012/628](#), **art. 8(c)** (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), **arts. 2, 4**)

#### Commencement Information

- I18** S. 213 wholly in force at 6.4.2007; s. 213 in force for certain purposes at Royal Assent see s. 270(2) (b); s. 213 in force for W. at 6.4.2007 by [S.I. 2007/305](#), **art. 2**; s. 213 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), **art. 2(a)**



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## 214 Proceedings relating to tenancy deposits

- (1) Where a tenancy deposit has been paid in connection with a shorthold tenancy, the tenant or any relevant person (as defined by section 213(10)) may make an application to [<sup>F8</sup>the county court] on the grounds—
  - [<sup>F9</sup>(a) that section 213(3) or (6) has not been complied with in relation to the deposit, or]
  - (b) that he has been notified by the landlord that a particular authorised scheme applies to the deposit but has been unable to obtain confirmation from the scheme administrator that the deposit is being held in accordance with the scheme.
- [<sup>F10</sup>(1A) Subsection (1) also applies in a case where the tenancy has ended, and in such a case the reference in subsection (1) to the tenant is to a person who was a tenant under the tenancy.]
- (2) Subsections (3) and (4) apply [<sup>F11</sup> in the case of an application under subsection (1) if the tenancy has not ended and ] the court—
  - [<sup>F12</sup>(a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or]
  - (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,  
as the case may be.
- [<sup>F13</sup>(2A) Subsections (3A) and (4) apply in the case of an application under subsection (1) if the tenancy has ended (whether before or after the making of the application) and the court—
  - (a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or
  - (b) is not satisfied that the deposit is being held in accordance with an authorised scheme,  
as the case may be.]
- (3) The court must, as it thinks fit, either—
  - (a) order the person who appears to the court to be holding the deposit to repay it to the applicant, or
  - (b) order that person to pay the deposit into the designated account held by the scheme administrator under an authorised custodial scheme,  
within the period of 14 days beginning with the date of the making of the order.
- [<sup>F14</sup>(3A) The court may order the person who appears to the court to be holding the deposit to repay all or part of it to the applicant within the period of 14 days beginning with the date of the making of the order.]
- (4) The court must <sup>F15</sup>... order the landlord to pay to the applicant a sum of money [<sup>F16</sup> not less than the amount of the deposit and not more than ] three times the amount of the deposit within the period of 14 days beginning with the date of the making of the order.
- (5) Where any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), the property in question is recoverable from the person holding it by the person by whom it was given as a deposit.
- (6) In subsection (5) “deposit” has the meaning given by section 213(8).

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### Textual Amendments

- F8** Words in s. 214(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F9** S. 214(1)(a) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(4\)](#), 240(2); [S.I. 2012/628](#), art. 8(c)(with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F10** S. 214(1A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(5\)](#), 240(2); [S.I. 2012/628](#), art. 8(c) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F11** Words in s. 214(2) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(6\)\(a\)](#), 240(2); [S.I. 2012/628](#), art. 8(c) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F12** S. 214(2)(a) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(6\)\(b\)](#), 240(2); [S.I. 2012/628](#), art. 8(c) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F13** S. 214(2A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(7\)](#), 240(2); [S.I. 2012/628](#), art. 8(c) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F14** S. 214(3A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(8\)](#), 240(2); [S.I. 2012/628](#), art. 8(c)(with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F15** Word in s. 214(4) repealed (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(9\)\(a\)](#), 240(2), [Sch. 25 Pt. 30](#); [S.I. 2012/628](#), art. 8(c)(e) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F16** Words in s. 214(4) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 184\(9\)\(b\)](#), 240(2); [S.I. 2012/628](#), art. 8(c) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)

### Commencement Information

- I19** S. 214 wholly in force at 6.4.2007; s. 214 not in force at Royal Assent see s. 270(4)(5); s. 214 in force for W. at 6.4.2007 by [S.I. 2007/305](#), art. 2; s. 214 in force for E. at 6.4.2007 by [S.I. 2007/1068](#), art. 2(a)

## 215 Sanctions for non-compliance

- (1) <sup>F17</sup> Subject to subsection (2A), [If a tenancy deposit has been paid in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy at a time when—
- (a) the deposit is not being held in accordance with an authorised scheme, or
  - <sup>F18</sup>(b) section 213(3) has not been complied with in relation to the deposit.]
- (2) <sup>F19</sup> Subject to subsection (2A), [If section 213(6) is not complied with in relation to a deposit given in connection with a shorthold tenancy, no section 21 notice may be given in relation to the tenancy until such time as section 213(6)(a) is complied with.
- <sup>F20</sup>(2A) Subsections (1) and (2) do not apply in a case where—
- (a) the deposit has been returned to the tenant in full or with such deductions as are agreed between the landlord and tenant, or
  - (b) an application to <sup>F21</sup>the county court] has been made under section 214(1) and has been determined by the court, withdrawn or settled by agreement between the parties.]
- (3) If any deposit given in connection with a shorthold tenancy could not be lawfully required as a result of section 213(7), no section 21 notice may be given in relation

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to the tenancy until such time as the property in question is returned to the person by whom it was given as a deposit.

- (4) In subsection (3) “deposit” has the meaning given by section 213(8).
- (5) In this section a “section 21 notice” means a notice under section 21(1)(b) or (4)(a) of the Housing Act 1988 (recovery of possession on termination of shorthold tenancy).

#### Textual Amendments

- F17** Words in s. 215(1) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(11)(a)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, **arts. 2, 4**)
- F18** S. 215(1)(b) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(11)(b)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, **arts. 2, 4**)
- F19** Words in s. 215(2) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(12)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, **arts. 2, 4**)
- F20** S. 215(2A) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 184(13)**, 240(2); S.I. 2012/628, **art. 8(c)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by S.I. 2012/2029, **arts. 2, 4**)
- F21** Words in s. 215(2A) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(3)**, **Sch. 9 para. 52**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, **arts. 3-11**)

#### Commencement Information

- I20** S. 215 wholly in force at 6.4.2007; s. 215 not in force at Royal Assent see s. 270(4)(5); s. 215 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; s. 215 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

## CHAPTER 5

### MISCELLANEOUS

#### *Overcrowding*

#### 216 Overcrowding

- (1) The appropriate national authority may by order make such provision as it considers appropriate for and in connection with—
- determining whether a dwelling is overcrowded for the purposes of Part 10 of the Housing Act 1985 (c. 68) (overcrowding);
  - introducing for the purposes of Chapter 3 of Part 4 of this Act a concept of overcrowding similar to that applying for the purposes of Part 10 (and accordingly removing the discretion of local housing authorities to decide particular issues arising under those sections);
  - securing that overcrowding in premises to which Chapter 3 of Part 4 of this Act would otherwise apply, or any description of such premises, is regulated only by provisions of Part 10.

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- (2) An order under this section may, in particular, make provision for regulating the making by local housing authorities of determinations as to whether premises are overcrowded, including provision prescribing—
- (a) factors that must be taken into account by such authorities when making such determinations;
  - (b) the procedure that is to be followed by them in connection with making such determinations.
- (3) An order under this section may modify any enactment (including this Act).
- (4) In this section—
- (a) any reference to Part 10 of the Housing Act 1985 includes a reference to Part 10 as modified by an order under this section; and
  - (b) “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

### *Energy efficiency*

#### **217 Energy efficiency of residential accommodation: England**

- [<sup>F22</sup>(1) The Secretary of State must take reasonable steps to ensure that by 2010 the general level of energy efficiency of residential accommodation in England has increased by at least 20 per cent compared with the general level of such energy efficiency in 2000.
- (2) Nothing in this section affects the duties of the Secretary of State under section 2 of the Sustainable Energy Act 2003 (c. 30) (energy efficiency aim in respect of residential accommodation in England).
- (3) In this section “residential accommodation” has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).]

#### **Textual Amendments**

**F22** S. 217 ceases to have effect (21.3.2012) by virtue of [Energy Act 2011 \(c. 16\)](#), **ss. 118(5)**, 121(1); S.I. 2012/873, art. 2(c)

### *Registered social landlords*

#### **218 Amendments relating to registered social landlords**

Schedule 11 (which makes amendments relating to registered social landlords) has effect.

#### **219 Disclosure of information to registered social landlords for the purposes of section 1 of the Crime and Disorder Act 1998**

In section 115(2) of the Crime and Disorder Act 1998 (c. 37) after paragraph (d) insert—

- “(da) a person registered under section 1 of the Housing Act 1996 as a social landlord;”.

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*Other provisions relating to social housing*

**220 Additional power to give grants for social housing**

After section 27 of the Housing Act 1996 (c. 52) insert—

*“Grants to bodies other than registered social landlords*

**27A Grants to bodies other than registered social landlords**

- (1) The Relevant Authority may make grants under this section to persons other than registered social landlords.
- (2) Grants under this section are grants for any of the following purposes—
  - (a) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (b) constructing houses to be disposed of—
    - (i) under equity percentage arrangements, or
    - (ii) on shared ownership terms;
  - (c) providing loans to be secured by mortgages to assist persons to acquire houses for their own occupation;
  - (d) providing, constructing or improving houses to be kept available for letting;
  - (e) providing, constructing or improving houses for letting that are to be managed by such registered social landlords, and under arrangements containing such terms, as are approved by the Relevant Authority;
  - (f) such other purposes as may be specified in an order under subsection (3).
- (3) The Secretary of State may by order make such provision in connection with the making of grants under this section as he considers appropriate.
- (4) An order under subsection (3) may, in particular, make provision—
  - (a) defining “equity percentage arrangements” for the purposes of this section;
  - (b) specifying or describing the bodies from whom loans may be obtained by persons wishing to acquire houses for their own occupation;
  - (c) dealing with the priority of mortgages entered into by such persons;
  - (d) specifying purposes additional to those mentioned in subsection (2)(a) to (e).
- (5) As regards grants made by the Housing Corporation, an order under subsection (3) may also require the imposition of conditions in connection with such grants, and for this purpose may—
  - (a) prescribe conditions that are to be so imposed;
  - (b) prescribe matters about which conditions are to be so imposed and any particular effects that such conditions are to achieve.
- (6) The Relevant Authority shall specify in relation to grants under this section—

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- (a) the procedure to be followed in relation to applications for grant,
  - (b) the circumstances in which grant is or is not to be payable,
  - (c) the method for calculating, and any limitations on, the amount of grant, and
  - (d) the manner in which, and the time or times at which, grant is to be paid.
- (7) If, by virtue of subsection (5), an order under subsection (3) requires conditions to be imposed by the Housing Corporation in connection with a grant to a person under this section, the Corporation in making the grant—
- (a) must provide that the grant is conditional on compliance by the person with such conditions as are required by the order; and
  - (b) if it exercises its power to impose conditions under subsection (8), must not impose any that are inconsistent with the requirements of the order.
- (8) In making a grant to a person under this section the Relevant Authority may provide that the grant is conditional on compliance by the person with such conditions as the Authority may specify.
- (9) The conditions that may be so specified include conditions requiring the payment to the Relevant Authority in specified circumstances of a sum determined by the Authority (with or without interest).
- (10) An order under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
- “disposed of on shared ownership terms” has the meaning given by section 2(6);
  - “letting” includes the grant of a licence to occupy.

### **27B Transfer of property funded by grants under section 27A**

- (1) Where—
- (a) any grant is paid or payable to any person under section 27A, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, another person who is not a registered social landlord,

this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 27A.

- (2) Where—
- (a) any amount is paid or payable to any person by way of grant under section 27A, and
  - (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, a registered social landlord,
- this Part shall have effect, in relation to times falling after that time, as if the grant, or such proportion of it as is determined or specified under subsection (4), had been paid or (as the case may be) were payable to that other person under section 18.

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- (3) In such a case, the relevant section 18 conditions accordingly apply to that grant or proportion of it, in relation to times falling after that time, in place of those specified under section 27A(8).

“The relevant section 18 conditions” means such conditions specified under section 18(3) as would have applied at the time of the making of the grant if it had been made under section 18 to a registered social landlord.

- (4) The proportion mentioned in subsection (1) or (2) is that which, in the circumstances of the particular case—
- (a) the Relevant Authority, acting in accordance with such principles as it may from time to time determine, may specify as being appropriate, or
  - (b) the Relevant Authority may determine to be appropriate.”

#### Commencement Information

**I21** S. 220 partly in force; s. 220 in force for certain purposes at Royal Assent see s. 270(2)(b); s. 220 in force for E. in so far as not already in force at 17.2.2005 by S.I. 2005/326, art. 2(a)

## 221 Extension of right to acquire

After section 16 of the Housing Act 1996 (c. 52) insert—

### “16A Extension of section 16 to dwellings funded by grants under section 27A

- (1) Section 16 applies in relation to a dwelling (“a funded dwelling”) provided or acquired wholly or in part by means of a grant under section 27A (grants to bodies other than registered social landlords) with the following modifications.
- (2) In section 16(1) the reference to a registered social landlord includes a reference to any person to whom a grant has been paid under section 27A.
- (3) In section 16(2) and (4) any reference to section 18 includes a reference to section 27A.
- (4) For the purposes of section 16 a funded dwelling is to be regarded as having remained within the social rented sector in relation to any relevant time if, since it was acquired or provided as mentioned in subsection (1) above, it was used—
  - (a) by the recipient of the grant mentioned in that subsection, or
  - (b) if section 27B applies in relation to the grant, by each person to whom the grant was, or is treated as having been, paid,exclusively for the purposes for which the grant was made or any other purposes agreed to by the Relevant Authority.
- (5) In subsection (4) “relevant time” means a time when the dwelling would not be treated as being within the social rented sector by virtue of section 16(3).”

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**Commencement Information**

**I22** S. 221 partly in force; s. 221 not in force at Royal Assent see s. 270(4)(5); s. 221 in force for E. at 17.2.2005 by S.I. 2005/326, art. 2(a)

**222 Rights of pre-emption in connection with assured tenancies**

- (1) Section 5 of the Housing Act 1988 (c. 50) (security of tenure for assured tenants) is amended as follows.
- (2) After subsection (5) (certain obligations etc. of tenant to be unenforceable) insert—
  - “(5A) Nothing in subsection (5) affects any right of pre-emption—
    - (a) which is exercisable by the landlord under a tenancy in circumstances where the tenant indicates his intention to dispose of the whole of his interest under the tenancy, and
    - (b) in pursuance of which the landlord would be required to pay, in respect of the acquisition of that interest, an amount representing its market value.

“Dispose” means dispose by assignment or surrender, and “acquisition” has a corresponding meaning.”
- (3) The amendment made by subsection (2) does not apply in relation to any right of pre-emption granted before the day on which this section comes into force.

**223 Allocation of housing accommodation by local authorities**

In section 167(2)(d) of the Housing Act 1996 (c. 52) (people to whom preference is to be given in allocating housing accommodation) after “medical or welfare grounds” insert “ (including grounds relating to a disability) ”.

**Commencement Information**

**I23** S. 223 partly in force; s. 223 not in force at Royal Assent see s. 270(4)(5); s. 223 in force for E. at 27.4.2005 by S.I. 2005/1120, art. 2

*Disabled facilities grant*

**224 Disabled facilities grant: caravans**

- (1) The Housing Grants, Construction and Regeneration Act 1996 (c. 53) is amended as follows.
- (2) In section 1(1)(c)(i) (grants in relation to qualifying park homes) for “qualifying park homes” substitute “ caravans ”.
- (3) In section 19(1) (applications for grants) for paragraph (c) substitute—
  - “(c) that the applicant is an occupier (alone or jointly with others) of a qualifying houseboat or a caravan and, in the case of a caravan, that at



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the time the application was made the caravan was stationed on land within the authority's area.”

- (4) In section 22A (certificates required in case of occupier's application)—
- (a) for “qualifying park home” in subsection (2)(b) and (3)(a) and (b) substitute “caravan”, and
  - (b) for “pitch” in subsection (3)(a) substitute “land”.
- (5) In the following provisions for “qualifying park home” substitute “caravan”
- (a) section 23(1)(a)(i), (b)(i), (i) and (k) (purposes of grant);
  - (b) section 24(3)(b)(i) (approval of application);
  - (c) section 29(3) (restriction on grants for works already begun);
  - (d) section 41(1)(b) (change of circumstances).
- (6) In section 57(2)(a) (power of authority to carry out works)—
- (a) for “qualifying park home”, in each place where it occurs, substitute “caravan”, and
  - (b) for “pitch” in sub-paragraph (i) substitute “land”.
- (7) In section 58 (minor definitions for the purposes of Chapter 1 of Part 1)—
- (a) before the definition of “common parts” insert—
    - ““caravan”—
    - (a) means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968); and
    - (b) includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;” and
  - (b) for “qualifying park home” in the definition of “premises” substitute “caravan”, and
  - (c) omit the definition of “qualifying park home”.
- (8) In section 59 (index of defined expressions)—
- (a) before the entry relating to “certified date” insert—

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|          |                  |
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| “caravan | section 58”; and |
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  - (b) omit the entry relating to “qualifying park home”.
- (9) The amendments made by this section do not apply in relation to any application for a disabled facilities grant under the Housing Grants, Construction and Regeneration Act 1996 (c. 53) that is made before the day on which this section comes into force.

*Accommodation needs of gypsies and travellers*

**225 Duties of local housing authorities: accommodation needs of gypsies and travellers**

- (1) Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment

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of the accommodation needs of gypsies and travellers residing in or resorting to their district.

- (2) Subsection (3) applies where a local housing authority are required under section 87 of the Local Government Act 2003 (c. 26) to prepare a strategy in respect of the meeting of such accommodation needs.
- (3) The local authority who are that local housing authority must take the strategy into account in exercising their functions.
 

“Functions” includes functions exercisable otherwise than as a local housing authority.
- (4) A local housing authority must have regard to any guidance issued under section 226 in—
  - (a) carrying out such an assessment as mentioned in subsection (1), and
  - (b) preparing any strategy that they are required to prepare as mentioned in subsection (2).
- (5) In this section—
  - (a) “gypsies and travellers” has the meaning given by regulations made by the appropriate national authority;
  - (b) “accommodation needs” includes needs with respect to the provision of sites on which caravans can be stationed; and
  - (c) “caravan” has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960.

#### Commencement Information

**I24** S. 225 wholly in force at 13.12.2007; s. 225 not in force at Royal Assent see s. 270(4)(5); s. 225 in force for E. at 2.1.2007 by [S.I. 2006/3191](#), [art. 2\(a\)](#); s. 225 in force for W. at 13.12.2007 by [S.I. 2007/3232](#), [art. 2\(a\)](#)

## 226 Guidance in relation to section 225

- (1) The appropriate national authority may issue guidance to local housing authorities regarding—
  - (a) the carrying out of assessments under section 225(1), and
  - (b) the preparation of any strategies that local housing authorities are required to prepare as mentioned in section 225(2).
- (2) Before giving guidance under this section, or revising guidance already given, the Secretary of State must lay a draft of the proposed guidance or alterations before each House of Parliament.
- (3) The Secretary of State must not give or revise the guidance before the end of the period of 40 days beginning with the day on which the draft is laid before each House of Parliament (or, if copies are laid before each House of Parliament on different days, the later of those days).
- (4) The Secretary of State must not proceed with the proposed guidance or alterations if, within the period of 40 days mentioned in subsection (3), either House resolves that the guidance or alterations be withdrawn.

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- (5) Subsection (4) is without prejudice to the possibility of laying a further draft of the guidance or alterations before each House of Parliament.
- (6) In calculating the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### Commencement Information

**I25** S. 226 wholly in force at 13.12.2007; s. 226 not in force at Royal Assent see s. 270(4)(5); s. 226 in force for E. at 2.1.2007 by [S.I. 2006/3191](#), [art. 2\(b\)](#); s. 226 in force for W. at 13.12.2007 by [S.I. 2007/3232](#), [art. 2\(b\)](#)

#### *Annual reports by local housing authorities*

### **227 Removal of duty on local housing authorities to send annual reports to tenants etc.**

Omit section 167 of the Local Government and Housing Act 1989 (c. 42) (duty of local housing authorities to send annual reports to tenants).

#### Commencement Information

**I26** [S. 227](#) wholly in force at 14.7.2005; [s. 227](#) not in force at Royal Assent see [s. 270\(4\)\(5\)](#); [s. 227](#) in force for E. at 17.2.2005 by [S.I. 2005/326](#), [art. 2\(a\)](#); [s. 227](#) in force for W. at 14.7.2005 by [S.I. 2005/1814](#), [art. 2\(b\)](#)

#### *Social Housing Ombudsman for Wales*

### **228 Social Housing Ombudsman for Wales**

- (1) After subsection (6) of section 51 of the Housing Act 1996 (c. 52) (schemes for investigation of housing complaints) insert—

“(7) This section shall not apply in relation to social landlords in Wales (within the meaning given by section 51C).”

- (2) <sup>F23</sup> .....
- (3) <sup>F23</sup> .....
- (4) <sup>F23</sup> .....

#### Textual Amendments

**F23** [S. 228\(2\)-\(4\)](#) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005](#) (c. 10), [ss. 39\(2\), 40](#), [Sch. 7](#); [S.I. 2005/2800](#), [art. 5\(1\)](#)

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#### **Commencement Information**

**I27** S. 228 wholly in force at 14.7.2005; s. 228 in force for certain purposes at Royal Assent see s. 270(2)(b)(7); s. 228 in force otherwise at 14.7.2005 by S.I. 2005/1814, art. 2(c)

**Status:**

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**Changes to legislation:**

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