



Housing Act 2004

2004 CHAPTER 34

PART 6

OTHER PROVISIONS ABOUT HOUSING

CHAPTER 1

SECURE TENANCIES

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).
- (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”.

Status: This is the original version (as it was originally enacted).

(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.”
- (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”.

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.

Status: This is the original version (as it was originally enacted).

- (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).”
- (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.