

2011 No. 1865(W. 203)

HOUSING, WALES

**The Housing (Purchase of
Equitable Interests) (Wales)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations give a housing authority which is a landlord of a flat under a long lease the power to purchase an equitable interest in the flat in order to assist the tenant to meet some or all of the costs of service charge payments payable by the tenant to the landlord in respect of repairs and improvement contributions. The agreement of the tenant is required. The terms "housing authority" and "long lease" are defined in section 458 of the Housing Act 1985. Section 450D of that Act (under which these Regulations are made) modifies the definition of "housing authority", and defines "improvement contribution" and "repairs".

Regulation 2 sets out the conditions which must be met before the power to purchase an equitable interest can be exercised.

Regulation 3 provides that the landlord may exercise the power conferred by regulation 2 whenever the lease was granted or assigned, and whenever the service charge became payable, in both cases including before the coming into force of these Regulations.

Regulation 4 requires the landlord to pay for the equitable interest purchased by reducing or cancelling (as the case may be) the service charge payment for which the tenant is liable. Where the landlord and the tenant have agreed that the tenant will meet the landlord's administrative expenses in connection with the purchase, the landlord may deduct these expenses from the purchase price.

Regulation 5 allows the landlord and the tenant to agree that the tenant will pay the landlord's

administrative expenses in connection with the purchase.

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Made 26 July 2011

Laid before the National Assembly for Wales
27 July 2011

Coming into force 19 August 2011

The Welsh Ministers, in exercise of the powers conferred upon them by section 450D of the Housing Act 1985(1), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Housing (Purchase of Equitable Interests) (Wales) Regulations 2011 and they come into force on 19 August 2011.

(2) These Regulations apply in relation to Wales.

Power to purchase an equitable interest to assist a tenant to meet service charge payments

2.—(1) A housing authority ("the landlord") may with the agreement of the tenant purchase an equitable interest in a flat where the conditions in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1) are that—

- (a) a long lease of the flat was granted or assigned by the landlord or another housing authority;

(1) 1985 c. 68. Section 450D was inserted by section 309 of the Housing and Regeneration Act 2008 (c. 17). The power to make regulations under section 450D(1) is conferred on the "appropriate national authority". By virtue of section 450D(10), the appropriate national authority means the Welsh Ministers in relation to Wales.

- (b) the tenant is liable under the terms of the lease to pay service charges to the landlord in respect of repairs or improvement contributions (whether to the flat, the building in which it is situated or any other building or land); and
- (c) the purpose of the purchase is to assist the tenant to meet some or all of the service charge payments.

Exercise of power to purchase

3. The landlord may make a purchase under regulation 2 notwithstanding that the lease concerned was granted or assigned, or the service charge concerned became payable, before the coming into force of these Regulations.

Purchase Price

4.—(1) The cost of the equitable interest purchased ("purchase price") must be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned, but this is subject to paragraph (2).

(2) Where, in accordance with a term agreed as mentioned in regulation 5, the tenant is liable to pay the landlord's administrative expenses, the purchase price may, at the option of the landlord, be reduced by the amount of those expenses.

Administrative Expenses

5. It may be a term of the agreement for a purchase under regulation 2 that the tenant be liable for the administrative expenses of the landlord in connection with the purchase.

Huw Lewis

Minister for Housing, Regeneration and Heritage, one of the Welsh Ministers

26 July 2011