



The General Housing Consents 2012

Section 32 of the Housing Act 1985





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May, 2012
Department for Communities and Local Government

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Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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A. The general consent for the disposal of Land held for the purposes of Part II of the Housing Act 1985 - 2012

The Secretary of State for Communities and Local Government ("the Secretary of State"), in exercise of powers under sections 32(2), 33(2) and 34 of the Housing Act 1985, section 133(1) of the Housing Act 1988, section 75 of the Housing and Regeneration Act 2008 and of all other powers enabling him in that behalf, hereby gives to all local authorities in England the following general consent:

CITATION, COMMENCEMENT, EXTENT AND REVOCATION

A1.1 This consent may be cited as *The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985 - 2012* and shall come into force on 18 May 2012.

A1.2 This consent does not apply to a disposal of a dwelling-house to a tenant (whether alone or with someone else) who has the right to buy it given by section 118 of the Housing Act 1985 except where the tenant is acquiring a shared ownership lease.

A1.3 *The General Consent for the Disposal of Part II Dwelling-houses 2005* given on 21 March 2005 is revoked.

INTERPRETATION

A2.1 References in this consent to a section, Part or Schedule are, except where the contrary appears, references to the Housing Act 1985.

A2.2 In this consent:

"disposal", in the case of a disposal by the local authority, means (except where the contrary appears):

- (a) a conveyance of a freehold interest;
- (b) an assignment of a lease;
- (c) the grant of a lease for a term of at least 99 years;
- (d) where the interest held by the local authority is leasehold, the grant of a lease for a term equal to the unexpired term of the lease less not more than one year;
- (e) where a building contains two or more dwelling-houses and the local authority has granted such a lease as described in sub-paragraph

(c) or (d) of one of them after 11 June 1981, the grant of a lease of another of the dwelling-houses expiring either:

(i) where one such lease has been granted, at the end of the term of that lease; or

(ii) where more than one such lease has been granted, at the end of the term of the last to expire;

(f) the grant of an option to purchase the freehold of, or other interest in, land; and

(g) the grant of a shared ownership lease;

and “dispose” shall be construed accordingly;

“dwelling-house” means a house or flat or part of a building occupied or intended to be occupied as a separate dwelling, including any yard, garden, out-houses and appurtenances belonging to or usually enjoyed with it, held for the purposes of Part II;

“flat” and “house” have the same meanings as in section 183;

“long lease” has the meaning given in section 7 of the Leasehold Reform, Housing and Urban Development Act 1993;

“land” includes buildings and other structures, land covered with water and any estate, interest, easement or right over land;

“market value” means the amount for which a property would realise on the date of the valuation on a disposal between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing where the parties had each acted knowledgeably, prudently, and without compulsion and where the market value is assessed not earlier than 3 months before the buyer applies or agrees to an offer in writing;

“registered provider of social housing” has the same meaning given in section 80 of the Housing and Regeneration Act 2008;

“secure tenancy” and “secure tenant” have the same meanings as in Part IV;

“shared ownership lease” means a lease of a house granted on payment of a premium calculated by reference to a percentage of the market value of the house;

“social housing” has the same meaning given in section 68 of the Housing and Regeneration Act 2008;

“tenancy” includes a licence to occupy and related expressions are to be construed accordingly;

“the right of pre-emption” means a condition precluding the disposal of the land by the transferee unless:

(a) he first notifies the local authority of the proposed disposal and offers to dispose of the land to the authority; and

(b) the authority refuses the offer or fails to accept it within one month of it being made; and

“vacant”, in relation to land means land on which –

(a) no houses have been built or

(b) where houses have been built, such houses are no longer capable of human habitation and are due be demolished;

“unoccupied” in relation to a house means a house which is not the subject of a tenancy to occupy granted by the local authority.

DISPOSAL OF LAND

A3.1.1 A local authority may, subject to paragraph 3.1.2, dispose of land for a consideration equal to its market value.

A3.1.2 Paragraph 3.1.1 does not apply to

(a) a disposal of land which is subject to a tenancy to occupy from the local authority to a landlord who is not another local authority; or

(b) a disposal of land to a body in which the local authority owns an interest except -

- (i) where the local authority has no housing revenue account; or
- (ii) in the case of a local authority with a housing revenue account, the first 5 disposals in a financial year.

For the purposes of paragraphs A3.1.2 and A4.2.2, a “financial year” means the period of a year commencing on 1 April in any year.

For the purposes of paragraph A3.1.2, a disposal means the disposal of the freehold of a house.

A3.2 A local authority may dispose of vacant land.

A3.3.1 A local authority may dispose of an unoccupied house to a person who intends to use it as their only or principal home subject to paragraphs 3.3.2 to 3.3.4.

A3.3.2 Subject to paragraph 3.3.4, where the person is a secure tenant and has the right to buy (under section 118) in respect of their current home, the local authority may dispose of the unoccupied house at a price which is not less than that which would have been payable were the tenant to acquire it under that right.

A3.3.3 Subject to paragraph 3.3.4, where the person-

- (a) is not a secure tenant; or
- (b) is a secure tenant but has not acquired the right to buy (under section 118)

the local authority may dispose of the unoccupied house at a price which is not less than an amount equal to the purchase price defined in section 126 (right to buy purchase price) to which the minimum discount, calculated in accordance with section 129, has been applied.

A3.3.4 The right to buy discounts applied in paragraphs 3.3.2 and 3.3.3 must not reduce the price of the unoccupied house to an amount less than the amount set or prescribed in section 131.

A3.4 Subject to paragraph 3.3.4, where a secure tenant occupies a house but has not accrued the qualifying period for the right to buy (under Part V), the local authority may dispose of the house to the secure tenant at a price which is not less than that which would have been payable were the tenant to acquire it under that right.

OTHER DISPOSALS

A4.1 A local authority may -

- (a) in the case of houses, extend a long lease or grant a long lease to a tenant who has held a long lease of the house for a period of at least two years, for a premium calculated in accordance with section 9 of the Leasehold Reform Act 1967; and
- (b) in the case of flats, extend a long lease or grant a new long lease to a qualifying tenant who has held a long lease of the flat for a period of at least two years, for a premium calculated in accordance with Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993.

A4.2.1 Subject to paragraph 4.2.2, a local authority may –

- (a) grant a lease of a term of less than 7 years; and
- (b) grant an assignment of a lease which at the date of the assignment has not more than 7 years to run.

A4.2.2 Paragraph 4.2.1 does not apply to the grant or assignment of a lease to a body in which the local authority owns an interest, except-

- (a) where the local authority does not have a housing revenue account; or
- (b) in the case of a local authority with a housing revenue account, the first 5 disposals of a type described in paragraph A4.2.1 in a financial year.

NATIONAL PARKS ETC.

A5 Where land is situated in a National Park or one of the areas mentioned in section 37(1) and a covenant of the kind mentioned in section 37(1) is not imposed, the local authority may impose a condition reserving the right of pre-emption, provided the right is exercisable:

- (a) within ten years of the date of the disposal; and
- (b) at the market value of the dwelling-house at the date the right is exercised less any repayment of discount demanded by the authority under the covenant mentioned in section 35(2).

DWELLING-HOUSES FOR THE ELDERLY ETC

A6 Where a dwelling-house is within paragraph 7, 9 or 10 of Schedule 5 (or would be within one of those paragraphs if it were one of a group which it was the practice of the local authority to let for occupation by a person of one of the descriptions mentioned in those paragraphs) or is within paragraph 11 of that Schedule, the authority may impose a condition reserving the right of pre-emption, provided the right is exercisable:

- (a) within twenty one years of the date of disposal; and
- (b) at the market value of the dwelling-house at the date the right is exercised less any repayment of discount demanded by the authority under the covenant mentioned in section 35(2).

SHARED OWNERSHIP LEASES

A7 The authority may include in a shared ownership lease a condition which –

- (a) precludes the lessee from granting a sub-lease of the whole or part of the dwelling-house; or
- (b) requires the authority's consent to a grant by the lessee of a sub-lease of the whole or part of the dwelling-house.

LIMITATION ON PRE-EMPTION

A8 No disposal under this consent shall reserve a right of pre-emption to the local authority except one:

- (a) permitted under this part of the consent; or
- (b) required by section 36A.

JOINT PURCHASERS

A9 If a local authority may dispose of a dwelling-house under this consent to an individual it may dispose of it to that individual together with one or more

other individuals on the same terms as it would have disposed of it to the individual.

SUBSEQUENT DISPOSALS

A10 The further consent of the Secretary of State shall not be required under section 133 of the Housing Act 1988 to the subsequent disposal of a dwelling-house which has been disposed of in accordance with this consent.

DISPOSALS TO REGISTERED PROVIDERS OF SOCIAL HOUSING

A11 Any disposal of a dwelling-house which was social housing made pursuant to this consent to a registered provider of social housing must remain as social housing for the period it is owned by the registered provider of social housing until it ceases to be social housing under the provisions of sections 72 to 76 of the Housing and Regeneration Act 2008.

Paul Downie
Affordable Housing Management and Standards Division
Department for Communities and Local Government

9 May 2012

B. The general consent for the disposal of dwelling-houses to tenants who have the right to buy acquiring with others 2012

The Secretary of State for Communities and Local Government (“the Secretary of State”), in exercise of his powers under sections 123(2) and 128(1) of the Local Government Act 1972, sections 32(2), 33(2), 34 and 43 of the Housing Act 1985 and section 133(1) of the Housing Act 1988 and of all other powers enabling him in that behalf, hereby gives to all local authorities in England the following general consent:

CITATION, COMMENCEMENT AND REVOCATION

B1.1 This consent may be cited as *The General Consent for the Disposal of Dwelling houses to Tenants who have the Right to Buy acquiring with others 2012* and shall come into force on 18 May 2012.

B1.2 *The General Consent for the Disposal of Dwelling-houses to Tenants who have the Right to Buy acquiring with others 2005* given on 21 March 2005 is revoked.

INTERPRETATION

B2 In this consent:

“principal consent” means *The General Consent for the Disposal of Land held for the Purposes of Part II of the Housing Act 1985 – 2012* or such consent that replaces it;

and otherwise expressions have the same meaning as in the principal consent except where the contrary appears.

CONSENT

B3.1 A local authority may, subject to the provisions of this consent, dispose of a dwelling-house to a secure tenant or tenants of that dwelling-house, who have the right to buy it given by section 118, and who are acquiring the dwelling-house with an individual who is not, or individuals all of whom are not, qualified to share the right to buy under section 123.

B3.2 Before the purchasers enter into an obligation to acquire a leasehold interest, the authority shall give them the estimates and information specified in sections 125A to 125C amended so that:

(a) for the statements of the effects of paragraphs 16B and 16C of Schedule 6, there shall be substituted a statement of the effects of the provisions in the lease described in paragraph B3.3(c)(ii); and

(b) no reference to section 450A and regulations under it need be included.

B3.3 The disposal shall be:

(a) at the price which would be payable if the tenant or tenants were acquiring the dwelling-house under Part V;

(b) in the case of a house where the authority owns the freehold, by way of a conveyance which conforms with Parts I and II of Schedule 6; and

(c) in the case of a house where the authority does not own the freehold and in the case of a flat, by way of the grant of a lease which:

(i) conforms with Parts I and III of Schedule 6; and

(ii) contains provisions restricting the liability of the tenant or tenants to service charges and improvement contributions as described in paragraphs 16B and 16C respectively of Schedule 6.

B3.4 Paragraphs A7 to A9 (rights of pre-emption) of the principal consent shall apply for the purposes of this consent.

SUBSEQUENT DISPOSALS

B4 The further consent of the Secretary of State shall not be required under section 133 of the Housing Act 1988 to the subsequent disposal of a dwelling-house which has been disposed of in accordance with this consent.

Paul Downie
Affordable Housing Management and Standards Division
Department for Communities and Local Government

9 May 2012

C. The general consent for the disposal of non-Part II dwelling-houses 2012

The Secretary of State for Communities and Local Government (“the Secretary of State”), in exercise of his powers under sections 123(2) and 128(1) of the Local Government Act 1972, section 43 of the Housing Act 1985 and section 133(1) of the Housing Act 1988 and of all other powers enabling him in that behalf hereby gives to all relevant authorities in England the following general consent:

CITATION, COMMENCEMENT AND REVOCATION

C1.1 This consent may be cited as *The General Consent for the Disposal of Non-Part II Dwelling-houses 2012* and shall come into force on 18 May 2012.

C1.2 *The General Consent for the Disposal of Non-Part II Dwelling-houses 2005* given on 21 March 2005 is revoked.

INTERPRETATION

C2 In this consent:

“dwelling-house” means a house or flat which is held by a relevant authority other than under Part II of which the authority may dispose under section 123 of the Local Government Act 1972;

“relevant authority” means a county, district or London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a police authority within the meaning of section 3 of the Police Act 1964 or any other authority which is a council for the purposes of section 123 of the Local Government Act 1972; and

otherwise expressions have the same meaning as in *The General Consent for the Disposal of Part II of the Housing Act 1985 - 2012*.

DISPOSAL OF A DWELLING-HOUSE AT A DISCOUNT

C3 A relevant authority may dispose of a dwelling-house to an individual or individuals if it could make the disposal under *The General Consent for the Disposal of Land held for the Purposes of Part II of the Housing Act 1985-2012* were the dwelling-house and the authority ones to which the consent applied.

C4 The disposal shall be subject to a covenant of the kind specified in section 35.

SUBSEQUENT DISPOSALS

C5 The further consent of the Secretary of State shall not be required under section 133 of the Housing Act 1988 to the subsequent disposal of a dwelling-house which has been disposed of in accordance with this consent.

Paul Downie
Affordable Housing Management and Standards Division
Department for Communities and Local Government

9 May 2012

D. The general consent for the disposal of reversionary interests in houses and flats 2012

The First Secretary of State ("the Secretary of State"), in exercise of his powers under sections 32(2) and 34 of the Housing Act 1985 and section 133(1) of the Housing Act 1988 and of all other powers enabling him in that behalf, hereby gives to all local authorities in England the following general consent:

CITATION, COMMENCEMENT AND REVOCATION

D1.1 This consent may be cited as *The General Consent for the Disposal of Reversionary Interests in Houses and Flats 2012* and shall come into force on 18 May 2012.

D1.2 *The General Consent for the Disposal of Reversionary Interests in Houses and Flats 2005* given on 21 March 2005 is hereby revoked.

INTERPRETATION

D2 In this consent:

"building" includes any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with it or any part of it;

"flat" and "house" have the same meanings as in section 183 of the Housing Act 1985; and

"long lease" has the meaning given to "long tenancy" in section 115 of that Act;

"qualifying tenant" has the same meaning as in section 5 of the Leasehold Reform, Housing and Urban Development Act 1993.

DISPOSAL OF A HOUSE

D3 Where a local authority is the landlord of a house, which is occupied as housing accommodation under a long lease, the authority may dispose of its interest to the leaseholder for such consideration that the local authority consider appropriate.

DISPOSAL OF A BUILDING DIVIDED INTO FLATS

D4 Where the conditions specified in paragraph D5 apply, a local authority may dispose of its interest in a building to the leaseholders of the flats in that building or to a company of which the shareholders are those leaseholders.

D5 The conditions are that:

- (a) the building contains only flats and common parts;

(b) all the flats are occupied as housing accommodation by tenants who have been qualifying tenants for the purposes of section 5 of the Leasehold Reform, Housing and Urban Development Act 1993;

(c) where the disposal is to the leaseholders, the leaseholder of each flat (or leaseholders, if more than one, taken together) shall acquire an interest equal to that of the leaseholder (or leaseholders, taken together) of each other flat; and where the disposal is to a company, the leaseholder of each flat (or leaseholders, if more than one, taken together) shall have an interest in the company equal to that of the leaseholder (or leaseholders, taken together) of each other flat; and

(d) the consideration for the disposal is such consideration the local authority consider appropriate.

SUBSEQUENT DISPOSALS

D6 The further consent of the Secretary of State shall not be required under section 133 of the Housing Act 1988 to the subsequent disposal of land which has been disposed of in accordance with this consent.

Paul Downie
Affordable Housing Management and Standards Division
Department for Communities and Local Government

9 May 2012

Commentary

1. This commentary provides some further explanation of the general consents. It is not intended to be comprehensive nor provide explanation where we believe the general consents are clear in themselves. Similarly it does not relieve authorities of the onus of satisfying themselves that any action they take is in accordance with the consents and the principal legislation.
2. For the sake of brevity the expression “dwelling” is used in these notes instead of “dwelling-house” and the expression “sale” includes any form of disposal permitted by the consent.
3. Section 44 of the Housing Act 1985 provides that a disposal of a house without consent is void, unless the disposal is of a single house to an individual. Section 32 Consent cannot be given retrospectively. Therefore, where a disposal is void by virtue of section 44 the remedy is to make the disposal again with the consent.
4. If a proposed transaction falls outside the terms of the general consents an application for special consent may be made to the Department for Communities and Local Government, Pooling and Consents Team, 1st Floor, Eland House, Bressenden Place, London SW1E 5DU.

GENERAL CONSENT A

5. This is the principal consent.
6. Paragraph 3.1 permits local authorities to dispose of any dwelling at market value. Disposals to a body owned or partly owned by the local authority are not permitted (unless the local authority has closed its Housing Revenue Account or disposal is one of the first five disposals in a financial year).and neither are disposals that would result in a local authority tenant becoming the tenant of a private landlord.
7. Paragraph 3.2 permits local authorities to dispose of vacant land, and this includes assets that are not dwellings (e.g. garages, drying areas etc), at any price determined by the local authority.
8. Paragraph 3.3 permits local authorities to dispose of dwellings at discounts equivalent to the right to buy discount to existing council tenants and others whom the local authority has decided need help accessing home ownership in the area (this latter group could include key workers or ex-military personnel, although that is for the local authority to decide).
9. The consent includes freedom for local authorities to dispose of unoccupied dwellings to registered housing associations at market value. Paragraph A10 provides that any disposal of a dwelling, which qualifies as

social housing, pursuant to this consent must remain as social housing and will do so until it is sold by the registered housing association.¹

10. You will wish to note that General Consent A also applies to disposals on shared-ownership terms, including disposals under the Social HomeBuy scheme.

GENERAL CONSENT B

11. This consent relaxes the restriction in paragraph A1.2 by permitting an authority to make a voluntary sale to a sitting tenant, who has the right to buy and wishes to share it with someone who is not qualified under section 123: for example, a member of his family who does not reside in the dwelling or someone who is not a family member.
12. If the dwelling is a house, of which the authority is the freeholder, the authority must sell the freehold. In other cases, the authority must grant a lease of the same duration as it would do if the sale were under the statutory right to buy. The provisions restricting the recovery of service charges for the first 5 years also apply.

GENERAL CONSENT C

13. This consent permits dwellings held by police authorities, and by county councils and housing authorities under powers other than Part II of the 1985 Act, to be sold in accordance with general consent A. Paragraph A1.2 (bar on sales to sitting tenants who have the right to buy) applies to general consent C.

GENERAL CONSENT D

14. This consent overlaps the right to enfranchise which the lessee of a house or the leaseholders in a block of flats have under the Leasehold Reform Act 1967 or the Leasehold Reform, Housing and Urban Development Act 1993 (as amended by the Commonhold and Leasehold Reform Act 2002). No consent under section 32 of the Housing Act 1985 is required if the statutory right is exercised. However, circumstances may occasionally arise where the statutory right is not exercisable. For example, if the local authority is not the freeholder, the lessee / leaseholders may wish to acquire the authority's leasehold interest but not wish, or be unable, to acquire the freehold.

¹ Section 75 of the Housing and Regeneration Act 2008 (as amended by Schedule 1 of the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010).