



Housing association tenants: Right to Buy (England)

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This briefing paper describes the current position in relation to housing association tenants and the Right to Buy. It does not cover the 2015 Conservative Government's commitment to extend the Right to Buy to assured tenants of housing associations. For information on this policy see Library briefing paper [Introducing a voluntary Right to Buy for housing association tenants in England](#) (7224).

Most housing association (assured) tenants **do not** have a statutory Right to Buy the home in which they live at a discount. This note explains the limited circumstances in which a housing association tenant might be able to exercise the Right to Buy. The note also outlines other possible options, such as the Right to Acquire.

Housing associations are now also known as private registered providers of social housing.

General information on Government schemes to assist people into home ownership can be found in Library Note SN/SP/3668 [Extending home ownership: Government initiatives](#). General information on the Right to Buy can be found on the [GOV.UK](#) website.

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1 Eligibility for the Right to Buy

1.1 Secure tenants of housing associations

Council tenants are generally secure tenants, the vast majority of whom have the Right to Buy the home in which they live at a discount. This statutory right was introduced by the *1980 Housing Act* and was subsequently consolidated into the *1985 Housing Act*. Housing association tenants who entered into their tenancy agreements prior to 15 January 1989 (the date on which Part 1 of the *1988 Housing Act* came into force) are also secure tenants. These tenants enjoy the same Right to Buy their homes as council tenants under the *1985 Act*. This right does not extend to tenants of charitable housing associations.

It is estimated that less than 1% of housing association tenants are eligible for the Right to Buy as a result of being a secure tenant.¹

1.2 Assured tenants of housing associations

Housing association tenants who entered into their tenancy agreements after 15 January 1989 are assured tenants whose rights are governed by the *1988 Housing Act*. As a general rule assured tenants of housing associations **do not have the Right to Buy the home in which they live** (section 3 below explains one exception to this rule).

The *1988 Housing Act*, which introduced the assured tenancy regime for housing associations, also introduced a 'mixed funding regime'. A key aim of the Conservative Government of the day was to attract more private finance into social housing development. Under the mixed funding regime associations bid for public funding for new housing development in the form of Social Housing Grant (from the Homes and Communities Agency, HCA). The remaining scheme costs are met from private finance in the form of loans secured on an association's asset base (i.e. their housing stock) and rental stream. The rationale for exempting assured tenants from the Right to Buy is based on the need for associations to provide security for private lenders. If these tenants were able to buy their homes, the value of an association's asset base would gradually be eroded and their rental stream reduced; it was recognised that, in turn, this would make lenders cautious about backing them.

¹ HC Deb 20 February 2012 c585W

1.3 Assured tenants of housing associations: a preserved Right to Buy

An exception to the general rule (of no RTB) exists where, following a transfer of a local authority's stock to a housing association, the existing secure tenants of the authority become assured tenants of the new landlord; these tenants retain a *preserved* Right to Buy. The right can persist if the tenant moves to another property owned by the new landlord but it will be lost if the landlord changes again.

It is estimated that around 620,000 housing association tenants, having transferred in their homes from a local authority to a housing association, are currently eligible for the preserved RTB. This represents around 25% of all housing association tenants.²

2 Prospects for change

To date, the Government have not indicated an intention to extend the RTB to all housing association tenants:

Henry Smith: To ask the Secretary of State for Communities and Local Government what his policy is on extending tenant right to buy to housing association homes; and if he will make a statement.

Mr Prisk: The Government are keen to help social tenants achieve their aspiration for home ownership where this is affordable and sustainable for them. All social tenants have priority for Government-funded affordable home ownership schemes, for example, shared ownership and the FirstBuy equity loan scheme, to help them into home ownership. These schemes can be of particular benefit to those without a right to purchase. Landlords may also offer voluntary sales schemes to assist their tenants to purchase their rented home.

We are open to representations on how we can further support home ownership.³

Two Members of Parliament, Frank Field and David Davis, joined forces in January 2012 to publish a pamphlet with the Institute of Public Policy Research entitled *The Right to Buy 2.0* in which they proposed an extension of the RTB:

Although 61 per cent of housing association tenants want to own their own home, 90 per cent of them do not expect to be able to do so in the near future (Taylor 2011). Extending the right to buy is not only the best solution for housing association tenants who want to own their home. It is also a great and much-needed opportunity for those waiting for social housing.

To provide more homes for the most vulnerable, housing associations need to receive all the proceeds from properties sold through the right to buy scheme in order to provide additional social housing, whether through acquisition or construction. This would enable many more people to take advantage of social housing than would otherwise be the case. It would also mean the Treasury recouping less money from each sale under right to buy than is currently the case.

The right to buy would also encourage the development of mixed tenure housing areas containing privately owned, private rented and social housing. This is a far better outcome than huge, homogenous, monolithic council estates, which have come to be stigmatised as hotbeds of crime and social problems.

² DC LG, *Reinvigorating the Right to Buy consultation*, December 2011, para 99

³ HC Deb 6 March 2013 c1016-17W

In 2009/10, UK public spending on social housing was £10.4 billion. This included £5.7 billion on local authority housing and £4.7 billion on other social housing. This has clearly not been enough to make a real impact on the chronic shortage of affordable housing. Using the proceeds from right to buy sales to build or acquire new homes has the potential to increase dramatically the amount of money invested in new social housing.⁴

Some notes of caution were reportedly sounded by the National Housing Federation (the representative body of housing associations):

Gill Payne, director of campaigns and neighbourhoods at the National Housing Federation, welcomed the proposals to help social housing tenants own their home.

But she said the issue was 'more complex' than the IPPR report suggested. 'Increasing discounts to enable tenants to buy their home would result in less money for housing associations to build much-needed affordable housing.'

'Even if right to buy receipts are retained by housing associations in full, once a property's existing debt and associated costs are paid, often what remains would not be enough to fund the cost of building a replacement home,' she added.⁵

However, Home Group, which owns 50,000 properties across England, Scotland and Wales, has estimated that extending home ownership opportunities to housing association tenants could add more than £68bn into the UK economy:

Mark Henderson, Home Group chief executive, said: "When the Government published its Housing Strategy at the end of 2011, improved right-to-buy opportunities for council tenants were at its heart. Home Group highlighted then that a far more seismic economic impact would be felt if the same opportunity was extended to housing association tenants providing we can replace a new property for each one sold.

"Updating the right-to-buy rules for housing association tenants not only offers individuals the same chance to become a homeowner as residents in council homes, it will give a phenomenal boost to the UK economy."

Current right-to-buy rules are blocking an estimated one million housing association tenants (source: IPPR) from buying their own properties. Based on historic data of local authority right-to-buy sales over the past 10 years, 1 in 5 of these would potentially look to buy their own home.

In its Housing Strategy, the Government stipulated that landlords would need to build a new property for every home sold. With the average new housing association property costing £120,000 to build (Bevver and Struthers 2011 Annual Review of Social Housing), and an estimated 200,000 new homes being built to replace the properties sold, this would see £24bn spent directly in the construction sector. The Confederation of British Industry (CBI) has previously calculated that every £1 spent in construction was worth £2.84 for the economy. On this basis, extending right-to-buy to housing association tenants would be worth £68.2bn a year.

Mr Henderson added: "There is clearly work still to be done on understanding how we can replace each sale with a new property but this is not an insurmountable problem. The key element is tenants having the necessary deposit when seeking a mortgage. Government could facilitate that through the use of the legacy debt that currently sits on housing authorities' books, at no cost to the taxpayer. This way, we can make it easier for people to own their own homes, we can move the sector away from the reliance on

⁴ IPPR, *The Right to Buy 2.0*, January 2012, p15

⁵ *Public Finance*, "[Housing association tenants should have right to buy](#)," January 2012

Government grant and we can make it economically possible to replace sales on a one-for-one basis.”⁶

3 Assured tenants: Right to Acquire

The *1996 Housing Act* introduced the Right to Acquire. This is a statutory right for tenants of housing associations to acquire their homes at a discount to the open market value. The right applies to eligible tenants of associations who live in eligible properties or new lettings provided with Social Housing Grant (or transferred to a housing association) after 1 April 1997. Details of the way in which the Right to Acquire works are set out in the *Housing (Right to Acquire) Regulations 1997* (SI 1997/619). The Regulations amend and then restate the Right to Buy provisions in the *1985 Housing Act* as they apply to the Right to Acquire. The Right to Acquire works in the same way as the Right to Buy, subject to the following important differences:

- Associations may sell the tenant an alternative property (i.e. a property other than that to which the tenancy relates and which is the subject of the tenant's claim).
- The discount offered to tenants is significantly less generous than that offered under the Right to Buy. The discount is a flat rate (i.e. it does not vary depending on the number of qualifying years as a tenant).
- There is no preserved Right to Acquire.
- There are four important differences between the exemptions from the Right to Buy and the Right to Acquire:
 - The Right to Acquire applies to charitable and non-charitable associations - unlike the Right to Buy, there is no exemption for charitable associations.
 - Properties situated in areas designated as rural by the Secretary of State are excluded from the Right to Acquire, using a guideline population of 3,000 inhabitants.
 - The exemptions that apply to special needs housing in paragraphs 7, 9 and 10 of Schedule 5 to the *1985 Housing Act* are retained in relation to the Right to Acquire. An additional paragraph has been added (9A) to extend the exemptions under the Right to Acquire to any property which is one of a group of properties which it is the practice of the landlord to let to people who have 'special needs' and who require 'intensive housing assistance'.
 - A new exemption was added for properties where the net debt attributable to the property is at least equal to the purchase price plus the discount.
- Under the Right to Buy the 1985 Act provided that this right 'overrode' a lender's security rights. For the Right to Acquire, landlords must serve notice on the lender informing it of the impending sale and providing certain information, including whether the association intends to redeem the charge in relation to the relevant property. If the charge is not redeemed the lender must be offered the option of taking alternative security or accepting a payment of a sum equal to the sale plus the discount. Regulations provide that the parties concerned may 'contract out' of these provisions.

⁶ Home Group, “68bn+ from extending right to buy”, January 2012

Changes were made to the discount provisions of the Right to Acquire with effect from December 1999:

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Ms Rosie Winterton: To ask the Secretary of State for the Environment, Transport and the Regions what proposals he has to adjust the Right to Acquire discount which is available to some registered social landlord tenants.

Mr. Raynsford: I will lay before Parliament tomorrow The Housing (Right to Acquire) (Discount) (Amendment) Order 1999 No. 3028. Subject to Parliamentary approval, it will come into force on 2 December.

The Right to Acquire scheme gives eligible tenants of registered social landlords the statutory Right to Buy the home they currently rent, with the help of a discount of between £9,000 and £16,000 depending on the area in which they live. The change will limit that discount to 50 per cent. of the value of the property where that is less than the flat rate discount for the area. Under the current arrangements, tenants in areas where property values are very low could purchase for a very low or nominal sum. This was not the original intention of the scheme, and does not represent a fair contribution from the purchaser towards the cost of acquiring the property.

The change will bring the Right to Acquire more into line with the Right to Buy and offer better value for money for the taxpayer. It will also help protect some registered social landlords whose financial position could be adversely affected if a substantial number of eligible tenants of low value properties were to exercise their Right to Acquire.

We are also considering the introduction of a "cost floor" to the Right to Acquire which would be similar to that which operates under the Right to Buy scheme. This would limit the discount available to some tenants whose homes have recently been acquired, built or improved while ensuring that registered social landlords recover the amount they have invested in the property. However, the issues are complex and require further examination before we decide whether to go ahead.⁷

Further changes were made to the Right to Acquire by the *2004 Housing Act*. More information on the Right to Acquire scheme can be found on the [GOV.UK website](http://gov.uk).

4 Social HomeBuy

The Social HomeBuy scheme is aimed at assisting tenants of social landlords who do not qualify for the Right to Buy or Right to Acquire or who cannot afford to exercise these rights, to buy a share of their rented home.

This discretionary scheme operates on a shared ownership basis – tenants buy a minimum share of 25% of the value of the property. The purchase attracts a discount which is the Right to Acquire discount (generally between £9,000 and £16,000 - depending upon the local authority area in which the property is located), pro-rata to the share purchased. Since 1 April 2008 new applicants have also been entitled to receive a discount on further shares bought.

Rent is payable on the un-owned share of the property. Staircasing is allowed in minimum 10% tranches up to 100%. Receipts raised from sales can be used for 'housing related purposes'.⁸ Exemptions operate in rural areas that also apply to the Right to Buy and Right to Acquire and to housing specifically for those with long term disabilities or special needs, or

⁷ HC Deb 10 November 1999 c616W

⁸ They will be recycled into a Disposals Proceeds Fund.

housing specifically provided for the elderly. More information can be found on the [GOV.UK website](#).