



Office of the
Deputy Prime Minister

Creating sustainable communities

The General Housing Consents 2005

Section 133 of the Housing Act 1988
(Subsequent Disposals)



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March 2005

Office of the Deputy Prime Minister: London

Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Tel: 020 7944 4400
Web site: www.odpm.gov.uk

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Printed in Great Britain on material containing 75% post-consumer waste and 25% ECF pulp.

March 2005

Product code 04 HC 02982/1

The general consents under section 133 of the Housing Act 1988 (subsequent disposals) 2005

NOTE 1

THESE CONSENTS ARE ONLY FOR THE PURPOSES OF SECTION 133 OF THE HOUSING ACT 1988. THEY DO NOT CONVEY ANY OTHER CONSENT WHICH MAY BE REQUIRED.

1. If consent is given under section 133, the consent of the Housing Corporation under section 9 of the Housing Act 1996 is not required (see section 133(7) of the 1988 Act, as amended by the Housing Act 1996 (Consequential Provisions) Order 1996, SI 1996 No 2325).
2. Section 133 may not apply to the disposal because:
 - (a) section 133 was disapplied when the consent under section 32 or 43 of the Housing Act 1985 was given to the original disposal by the local authority; or
 - (b) it is an exempt disposal within the meaning of section 81(8) of the 1988 Act.

In either of those circumstances, consideration will need to be given to whether the consent of the Housing Corporation is required under section 9 of the Housing Act 1996, and, if so, whether it is given by the Housing Corporation's General Consent for the Disposal of Land.

NOTE 2

1. If the disposal is not covered by a general consent an application for specific consent should be made to The Office of the Deputy Prime Minister, Zone 2/D2, Eland House, Bressenden Place, London, SW1E 5DU. As consent cannot be given retrospectively the application should be received by the Office at least 15 working days before exchange of contracts.

A. The general consent under section 133 of the Housing Act 1988 for small disposals 2005

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- A1.1 The consent may be cited as the General Consent under Section 133 of the Housing Act 1988 for Small Disposals 2005 and shall come into force on 21 March 2005.
- A1.2 Any previous general consent under section 133 of the Housing Act 1988 for small disposals is revoked.

INTERPRETATION

- A2 In this consent:

“Committee” means the committee of management or other directing body of the Landlord;

“independent qualified valuer” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or any successor body thereof who is not a member of the Committee or an employee of the Landlord or of any subsidiary or associate (as defined in sections 60 and 61 of the Housing Act 1996) of the Landlord and is not providing advice to the acquirer of the land about the disposal;

“Landlord” means the registered social landlord making the disposal;

“local authority” means a unitary authority, county council, borough council, district council, town council or parish council;

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996; and

“London” means the City of London or any London borough.

CONSENT

- A3 Subject to the conditions contained in paragraph A4, a registered social landlord may dispose of land where the value of the interest disposed of, assuming it were paid as a single sum at the time of the disposal, does not exceed:
- (a) if the land is in London, £240,000;

(b) if the land is elsewhere, £120,000.

A certificate by an independent qualified valuer nominated by the Landlord that the value does not exceed the limit specified in (a) or (b) above or the opinion of the Committee of the Landlord (as recorded in a resolution of the Committee) that the value does not exceed £5,000 shall be conclusive for the purposes of this paragraph.

CONDITIONS

A4 The conditions are:

- (a) that the disposal is not part of a larger transaction except where the value of the interest disposed of does not exceed £5,000;
- (b) that there is no dwelling-house built on the land disposed of, but the land may include any yard, garden, garage, outhouses or appurtenances belonging to or usually enjoyed with a dwelling-house;
- (c) that the consideration is the best that can reasonably be obtained for the interest disposed of, which may be nil consideration in the case of land specifically identified under section 106 of the Town and Country Planning Act 1990 as an open space that is to be returned or transferred to a local authority, or in the case of land specifically identified as amenity land by the local authority when it first transferred to the registered social landlord;
- (d) that, where the value of the interest disposed of exceeds £5,000, an independent qualified valuer provided the Landlord not more than three months before the disposal with his opinion in writing as to the consideration (or, in the case of a sale by auction, the reserve price) which would satisfy condition (c);
- (e) that the Landlord is not the landlord of any tenancy affecting the land, other than a tenancy where the tenant is the person or one of the persons to whom the disposal is made or, in the case of a joint tenancy, where all the tenants are or are among the persons to which the disposal is made.

A5 The opinion of the Committee of the Landlord (as recorded in a resolution of the Committee) that the value of the interest disposed of does not exceed £5,000 shall be conclusive for the purposes of paragraph A4(a).

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

Note (not forming part of the consent)

It is not a condition of the consent that the value of the interest disposed of be paid as a single sum at the time of the disposal. It is necessary to make that assumption only for the purposes of determining whether the value of the interest exceeds £240,000 or (as the case may be) £120,000.

B. The general consent under section 133 of the Housing Act 1988 for the sale of a dwelling-house under a contractual right to buy

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- B1.1 The consent may be cited as the General Consent under Section 133 of the Housing Act 1988 for the Sale of a Dwelling-house under a Contractual Right to Buy 2005 and shall come into force on 21 March 2005.
- B1.2 Any previous general consent under section 133 of the Housing Act 1988 for the sale of a dwelling-house under a contractual right to buy is revoked.

INTERPRETATION

- B2 In this consent:

“house” has the meaning given to it by section 56 of the Housing Act 1985;

“Landlord” means the registered social landlord making the disposal;

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996;

“secure tenancy” has the same meaning as in Part IV of the Housing Act 1985; and

“the statutory right to buy” means those rights conferred by Part V of the Housing Act 1985 as it applies in a case where the right to buy is preserved on the disposal of a dwelling-house to a private sector landlord.

CONSENT

- B3 A registered social landlord may sell any house, provided that:
- (a) the sale is to the tenant of that house (the “subject house”) or to the tenant jointly with any person who would be qualified under section 123 of the Housing Act 1985 to share the statutory right to buy with the tenant if the tenant were exercising the statutory right to buy and if same-sex partnerships were treated in the same way as opposite sex partnerships; and

- (b) the tenant is the tenant by virtue of:
- (i) having succeeded, in accordance with section 17 of the Housing Act 1988, to the tenancy of a person who had a secure tenancy, which was not a joint tenancy, of a house (whether the subject house or another house) at the time (being a time before 24 September 1996) it was acquired by the Landlord from a local authority; or
 - (ii) having been granted a tenancy, in accordance with a right of succession for a member of the family (as defined in section 113 of the Housing Act 1985) contained in the tenancy agreement of a person who had a secure tenancy, which was not a joint tenancy, of a house (whether the subject house or another house) at the time it was acquired by the Landlord from a local authority; and
- (c) the tenant under the terms of his tenancy agreement has the right to buy the house from the Landlord and the sale is in compliance with the Landlord's contractual obligation to the tenant; and
- (d) the terms of the sale conform with the terms on which the house would have been sold to the tenant if he were exercising the statutory right to buy.

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

Notes

Paragraph 26 of Schedule 18 to the Housing Act 1996 provides that a person in whom an assured tenancy vests under section 17 of the Housing Act 1988 shall be a qualifying successor for the purposes of the preserved right to buy, where the qualifying disposal by the local authority to the private sector landlord is on or after 24 September 1996.

C. The general consent under section 133 of the Housing Act 1988 for disposals on shared ownership terms 2005

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- C1.1 The consent may be cited as the General Consent under Section 133 of the Housing Act 1988 for Disposals on Shared Ownership Terms 2005 and shall come into force on 21 March 2005.
- C1.2 The General Consent under section 133 of the Housing Act 1988 for the Disposal to the Tenant of the Reversion to a Shared Ownership Lease 1997 is hereby revoked.

INTERPRETATION

- C2 In this consent:

“house” and “flat” have the meanings given to them by section 183 of the Housing Act 1985;

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996;

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

“tenant” means the tenant under the shared ownership of the lease.

CONSENT

- C3 A registered social landlord may at any time:
- (a) grant a shared ownership lease (that is not an assured tenancy) of a house or a flat to a tenant provided that the tenant's initial premium is 90% or less of the value of the house or flat or the cost of providing it;
 - (b) dispose of the freehold or leasehold reversion (“the reversion”) of a house held on shared ownership lease terms to the tenant or such other person as the tenant may direct in pursuance of an option to purchase the reversion contained in the shared ownership lease upon the tenant acquiring a total share of 100 per cent of the value of the house;

(c) where the tenant of a flat held on shared ownership lease terms has acquired a total share of 100 per cent of the value of the flat, grant to the tenant or such other person as the tenant may direct a new lease of that flat for a term of 125 years at a rent of £10 per annum.

C4 A conveyance or grant executed in pursuance of this consent shall conform, insofar as practicable, with Parts I, II and III of schedule 6 to the Housing Act 1985 (terms of conveyance or grant in pursuance of right to buy).

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

D. The general consent under section 133 of the Housing Act 1988 for grant of a lease of business accommodation 2005

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- D1.1 The consent may be cited as the General Consent under Section 133 of the Housing Act 1988 for the Grant of a Lease of Business Accommodation 2005 and shall come into force on 21 March 2005.
- D1.2 Any previous general consent under section 133 of the Housing Act 1988 for the grant of a lease of a shop is revoked.

INTERPRETATION

- D2 In this consent:

“Committee” means the committee of management or other directing body of the Landlord;

“house” has the meaning given to it by section 56 of the Housing Act 1985;

“independent qualified surveyor” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or any successor body thereof who is not a Committee member or employee of the Landlord or of any subsidiary or associate (as defined in sections 60 and 61 of the Housing Act 1996) of the Landlord and is not providing advice to the proposed lessee about the lease;

“Landlord” means the registered social landlord making the disposal; and

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996.

CONSENT

- D3 Subject to the conditions in paragraph D4, a registered social landlord may grant a lease of:
- (a) non-residential property; or
 - (b) non-residential property and a house, where the house is intended to be occupied by a person who works in the business or by that person and others.

D4 The conditions are:

- (a) that the lease is for a term not exceeding 25 years;
- (b) (i) that the accommodation is vacant; or
 - (ii) the lease is granted pursuant to a right of the existent tenant of the accommodation to be granted a new lease; or
 - (iii) the lease is granted to a person who was the tenant of the accommodation under a tenancy to which Part II of the Landlord and Tenant Act 1954 applied, where that person had the right to be granted a new lease, but lost that right having failed to comply with the requirements of Part II of the Landlord and Tenant Act 1954;
- (c) that the consideration for the grant of the lease is the best that can reasonably be obtained;
- (d) that an independent qualified valuer provided the Landlord not more than three months before the grant of the lease with his opinion in writing as to the consideration which would satisfy sub-paragraph (c).

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

E. The general consent under section 133 of the Housing Act 1988 for grant of a short lease for community purposes or special needs housing 2005

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- E1 The consent may be cited as the General Consent under Section 133 of the Housing Act 1988 for the Grant of a Short Lease for Community Purposes or Special Housing Needs 2005 and shall come into force on 21 March 2005.

INTERPRETATION

- E2 In this consent:

“house” has the meaning given to it by section 58 of the Housing Act 1985;

“Landlord” means the registered social landlord making the disposal; and

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996.

CONSENT

- E3 A registered social landlord may dispose of any land or house to a person where:
- (a) the disposal is by way of a lease for a term which, together with any options for the renewal thereof, does not exceed ten years; and
 - (b) the terms of the disposal restrict the use of the land or house to:
 - (i) a purpose, other than housing accommodation, beneficial to the residents of the area; or
 - (ii) housing accommodation for occupation by persons who have a need arising from disablement, past or present dependence on alcohol or drugs, past or present mental disorder or fear of domestic violence; and
 - (c) the terms of the disposal preclude the lessee using the land or house to trade for profit; and

- (d) the lease is granted for a consideration which, in the opinion of the Landlord, is fair and reasonable having regard to all the circumstances, including the purposes for which the land or house will be used; and
- (e) the Landlord is not the landlord of any tenancy affecting the land or house, other than a tenancy where the landlord or tenants are the person or are among the persons to whom the disposal is made.

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

F. The general consent under section 133 of the Housing Act 1988 for the disposal of reversionary interests in houses and flats 2005

The First Secretary of State, in exercise of his powers under section 133 of the Housing Act 1988, and after consultation with the Housing Corporation, hereby gives to registered social landlords, in respect of land or houses in England, the following general consent.

CITATION, COMMENCEMENT AND REVOCATION

- F1 This consent may be cited as *The General Consent under section 133 of the Housing Act 1988 for the Disposal of Reversionary Interests in Houses and Flats 2005* and shall come into force on 21 March 2005.

INTERPRETATION

- F2 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, save that it includes otherwise qualifying tenants of charitable housing trusts.

DISPOSAL OF A HOUSE

- F3 Where a registered social landlord is the landlord of a house, which is occupied as housing accommodation under a long lease, the registered social landlord may dispose of its interest to the leaseholder for the best consideration that can reasonably be obtained.

DISPOSAL OF A BUILDING DIVIDED INTO FLATS

- F4 Where the conditions specified in paragraph F5 apply, a registered social landlord 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.

F5 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 39(2)(a) of the Leasehold Reform, Housing and Urban Development Act 1993 for at least two years;
- (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 the best that can reasonably be obtained.

SUBSEQUENT DISPOSALS

F6 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.

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005

General consent under section 171D of the Housing Act 1985

The First Secretary of State, in exercise of his powers under section 171D (2) and (3) of the Housing Act 1985, hereby consents to any registered social landlord disposing of less than its whole interest in any qualifying dwelling-house in England by way of security for a loan.

In this consent “registered social landlord” has the same meaning as in Part I of the Housing Act 1996.

This consent shall come into force on 21 March 2005 and supersedes existing consents under section 171D of the Housing Act 1985 for disposals by way of security for a loan.

Anne Kirkham
Decent Homes Division
Office of the Deputy Prime Minister

21 March 2005