



HOUSING ASSOCIATION

**RIGHT TO BUY  
INFORMATION LEAFLET**

The Housing (Scotland) Act 2001 has changed the rules relating to the tenants "Right to Buy".

This leaflet is designed to explain these rules. The rules are very complex and you should always seek independent advice.

There are now 2 sets of rules relating to the Right to Buy:

- (i) The "original" Right to Buy
- (ii) The "modernised" Right to Buy

Under the modernised Right to Buy the levels of discount available to tenants are substantially restricted. The modernised Right to Buy also requires a longer period of occupancy before you are entitled to have the Right to Buy.

## **DO YOU HAVE THE RIGHT TO BUY?**

Your eligibility for the Right to Buy, and whether you get the original or modernised Right to Buy would depend largely on the date your tenancy commenced.

- If your tenancy with Cordale Housing Association began before 2<sup>nd</sup> January 1989, you will have the Right to Buy on the original terms.
- If you became a Cordale tenant between 2<sup>nd</sup> January 1989 and 30<sup>th</sup> September 2002, as a result of a stock transfer from a local authority you will have the Right to Buy preserved on the original terms.
- If you became a Cordale tenant for the first time between 2<sup>nd</sup> January 1989 and 30<sup>th</sup> September 2002, other than by stock transfer, then you will not have the original Right to Buy but will eventually qualify for the modernised Right to Buy.
- If your tenancy with Cordale Housing Association started after 30<sup>th</sup> September 2002, you will eventually be entitled to exercise the Right to Buy on the modernised terms.
- Finally if your tenancy is of a house which have been specially adapted to meet your support needs (eg sheltered housing or wheelchair adapted), **you will not have the Right to Buy.**

Please note the above rules set out the general position. There are some very complex exceptions.

## **DISCOUNTS AND QUALIFYING PERIOD**

### **The “Original” Right to Buy**

- 2 year qualifying period
- **Discount for a House**  
Minimum 32% discount increasing by 1% for each year above 2 years occupancy to a maximum discount of 60% (Maximum discount achieved after 30 years qualifying occupancy)
- **Discount for a Flat**  
Minimum discount 44% increasing by 2% for each year above 2 years occupancy to a maximum of 70% (Maximum discount achieved 15 years qualifying occupancy)

### **The Modernised Right to Buy**

- Minimum discount 20%
- Increased by 1% for each years occupancy
- Maximum discount 35% or £15,000, whichever is lower.

Please note that in both situations the final price payable may be affected by the “Cost Floor Rules”. These rules can restrict the amount of discount available to you and apply where the landlord has incurred costs in acquiring or renovating your property. If the rules apply, the selling price will not be less than the eligible costs incurred, no matter your discount entitlements.

You should seek independent advice on these rules if they apply to your application.

## **RESTRICTIONS ON MODERNISED RIGHT TO BUY**

If you qualify for the modernised Right to Buy then you should note that there are a number of restrictions.

- Registered Social Landlords (RSLs) like Cordale Housing Association will be allowed to delay the implementation of the modernised Right to Buy for a period of up to 10 years. This restriction is to allow the RSLs to prepare for the impact that the extension of the Right to Buy to their tenants will bring.

This means that if you only qualify for the modernised Right to Buy, then you will not be able to buy your home from Cordale Housing Association until 30<sup>th</sup> September 2012 at the earliest. It is possible that restrictions relate to tenancies or house built to acquire via stock transfer by Cordale after 30<sup>th</sup> September 2002.

Again you should obtain independent legal advice.

- Rent and Council Tax Arrears

Landlords are entitled to refuse an application to exercise the Right to Buy if you have rent or Council Tax or water and sewage tax arrears. This applies to both old and modernised Right to Buy. In making your application, you will need to produce a certificate confirming the position.

- Eviction Proceeding Pending

If your landlord has started eviction proceedings against you, then your Right to Buy is suspended. This applies in both old and modernised Right to Buy.

- Succession to Tenancy

If a tenant, who had the old or original Right to Buy dies, then their spouse or partner will succeed to the tenancy including the original Right to Buy. If however, the tenancy is transferred by succession to any other person (eg family member or carer) that successor would only get the modernised Right to Buy, which in effect means no Right to Buy until 30<sup>th</sup> September 2012.

- Assignment of Tenancy

If you have obtained your tenancy through assignment, you will only get the modernised Right to Buy no matter the status of the previous tenant who assigned the tenancy to you.

- Transfer or Exchange of Tenancy

If you transfer or exchange tenancy, you will be regarded in law as accepting a new Scottish Secure Tenancy at the date of the exchange or transfer. Accordingly, you will only receive the modernised Right to Buy which as stated above, effectively means no Right to Buy until 30<sup>th</sup> September 2012.

If you currently are entitled to the original Right to Buy you should consider this factor carefully before accepting a transfer of tenancy or a mutual exchange. There are a very limited number of exceptions to this rule and again you should obtain independent legal advice before accepting the transfer or exchange.

## **PROCEDURE FOR RIGHT TO BUY**

If you wish to purchase your home under the Right to Buy, the law sets out a specific procedure and timetable which must be followed.

### **1. Application**

Your application must be made on a specific prescribed form. This form is available on request from our office.

### **2. Valuation**

The price you will pay will be based on the market value of your home less any discount to which you are entitled.

### **3. Refusal of Acceptance of Application**

We are entitled to refuse your application in certain limited situations. If we do so, we must tell you within one month of you lodging your application. If you wish to dispute our refusal, you may challenge our decision by making an application to the Lands Tribunal for Scotland within one month of the date of refusal.

If we accept your application, we are obliged to issue an offer to sell the property to you within two months of receipt of your application.

### **4. Calculation of Discount**

Your discount will be based on your length of qualifying occupancy. If you dispute our calculation, you can ask us to review it or you can ask the Lands Tribunal to decide this matter.

### **5. Sale**

On receipt of your offer to sell, you should instruct a solicitor immediately to act on your behalf to conclude the legal formalities.

If you decided to apply to buy your house you should obtain independent legal and financial advice. Purchasing your home is a major legal and financial decision. It involves many obligations and potential financial risks.

This leaflet is designed to provide general guidance only. It is not intended to be a substitute for proper professional legal and financial advice. No guarantee is given with regard to its accuracy.

If you wish further information please contact us:

**This leaflet can be made available in other languages, on tape, large print or Braille on request**



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### **Office Opening Hours**

Monday	9.00am to 12.30pm	1.30pm to 5.00pm
Tuesday	9.00am to 12.30pm	1.30pm to 5.00pm
Wednesday	Closed	1.30pm to 5.00pm
Thursday	9.00am to 12.30pm	1.30pm to 5.00pm
Friday	9.00am to 12.30pm	1.30pm to 5.00pm

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