



Housing Act 1985

1985 CHAPTER 68

PART XIV

LOANS FOR ACQUISITION OR IMPROVMEENT OF HOUSING

Local authority mortgages

435 Power of local authorities to advance money.

- (1) A local authority may advance money to a person for the purpose of—
 - (a) acquiring a house,
 - (b) constructing a house,
 - (c) converting another building into a house or acquiring another building and converting it into a house, or
 - (d) altering, enlarging, repairing or improving a house,or for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.
- (2) The authority may make an advance notwithstanding that it is intended that some part of the premises will be used, or continue to be used, otherwise than as a dwelling if it appears to the authority that the principal effect of making the advance would be to meet the applicant's housing needs; and in such a case the premises shall be treated as a building to be converted into a house.
- (3) The authority may make advances whether or not the houses or buildings are in the authority's area.
- (4) An advance may be made in addition to assistance given by the authority in respect of the same house under any other Act or any other provision of this Act.

436 Terms of advance.

- (1) The provisions of this section have effect with respect to the terms of advances under section 435.
- (2) The advance, together with the interest on it, shall be secured by a mortgage of the land concerned; and an advance shall not be made unless the estate proposed to be mortgaged is either—
 - (a) an estate in fee simple absolute in possession, or
 - (b) an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.
- (3) The amount of the principal of the advance shall not exceed the value of the mortgage security or, as the case may be the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out; and the advance shall not be made except after a valuation duly made on behalf of the authority.
- (4) Where the advance is for any of the purposes specified in section 435(1)(b) to (d) (construction, conversion, alteration, enlargement, repair or improvement) it may be made by instalments from time to time as the works progress.
- (5) The mortgage deed shall provide—
 - (a) for repayments of the principal either by instalments of equal or unequal amounts, beginning on the date of the advance or at a later date, or at the end of a fixed period (with or without a provision allowing the authority to extend the period) or on the happening of a specified event before the end of that period, and
 - (b) for the payment of instalments of interest throughout the period beginning on the date of the advance and ending when the whole of the principal is repaid; but subject to section 441 (waiver or reduction of payments in case of property requiring repair or improvement) and to section 446(1)(b) (assistance for first time buyers: part of loan interest-free for up to five years).
- (6) The mortgage deed shall also provide that, notwithstanding the provisions referred to in subsection (5), the balance for the time being unpaid—
 - (a) shall become repayable on demand by the authority in the event of any of the conditions subject to which the advance is made not being complied with, and
 - (b) may, in any event, be repaid on one of the usual quarter-days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the authority.

437 Power of local authority on disposal to leave amount outstanding on mortgage.

On the disposal of a house under section 32 (disposal by local authority of land held for purposes of Part II)—

- (a) by way of sale, or
- (b) by the grant or assignment of a lease at a premium

the local authority may agree to the price or premium, or part of it, and any expenses incurred by the purchaser, being secured by a mortgage of the premises.

438 Local authority mortgage interest rates.

- (1) Where after 3rd October 1980 a local authority—
 - (a) advance money for any of the purposes mentioned in section 435, or
 - (b) on the disposal of a house allow, or have to allow, a sum to be left outstanding on the security of the house, or
 - (c) take a transfer of a mortgage in pursuance of section 442 (agreement by local authority to indemnify mortgagee),the provision made by them with respect to interest on the sum advanced or remaining outstanding shall comply with the provisions of Schedule 16.
- (2) This section does not prevent a local authority from giving assistance in the manner provided by—
 - section 441 (waiver or reduction of payments in case of property requiring repair or improvement), or
 - section 446(1)(b) (assistance for first-time buyers: part of loan interest-free for up to five years).
- (3) This section does not apply to loans made by local authorities under—
 - section 228 (duty to make loans for improvements required by improvement notice), or
 - section 58(2) of the Housing Associations Act 1985 (financial assistance for housing associations).

439 Requirements as to fitness of premises, &c.

- (1) Before advancing money under section 435 for the purpose specified in subsection (1) (a) (acquisition of a house), the authority shall satisfy themselves that the house to be acquired is, or will be made, in all respects fit for human habitation.
- (2) Before advancing money for any of the purposes specified in subsection (1)(b) to (d) of that section (construction, conversion, alteration, enlargement, repair or improvement), the authority shall satisfy themselves that the house concerned will when the relevant works have been completed be in all respects fit for human habitation.
- (3) An advance shall not be made for the purpose specified in the closing words of section 435(1) (repayment of previous loan), unless the authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either—
 - (a) to retain an interest in the house concerned, or
 - (b) to carry out such works in relation to the building or house concerned as would be eligible for an advance under paragraph (c) or (d) of that subsection (conversion, alteration, enlargement, repair or improvement).

440 Deposits in respect of maintenance or repair of mortgaged premises.

A local authority by whom has been advanced on the mortgage of a house in pursuance of any enactment may accept the deposit by the mortgagor of the sums estimated to be required for the maintenance or repair of the mortgaged premises, and may pay interest on sums so deposited.

441 Waiver or reduction of payments in case of property requiring repair or improvement.

- (1) Where a local authority—
 - (a) advance money for the acquisition of a house which is in need of repair or improvement, or
 - (b) on the disposal of a house which is in need of repair or improvement allow, or have to allow, a sum to be left outstanding on the security of the house, they may, if the conditions stated in subsection (2) are satisfied, give assistance in accordance with this section to the person acquiring the house.
- (2) The conditions are—
 - (a) that the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be prescribed, and
 - (b) that the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (3) The assistance shall take the form of making provision—
 - (a) for waiving or reducing the interest payable on the sum advanced or remaining outstanding, and
 - (b) for dispensing with the repayment of principal,for a period ending not later than five years after the date of the advance or, as the case may be, the date of the disposal.
- (4) In this section “prescribed” means prescribed by order of the Secretary of State made with the consent of the Treasury.
- (5) An order—
 - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.