



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART I

PROVISION OF HOUSING

Acquisition and disposal of land

9 Power of local authority to acquire land for, or in connection with, provision of housing accommodation

- (1) A local authority may acquire—
- (a) any land as a site for the erection of houses;
 - (b) land proposed to be used for any purpose authorised by section 3 or section 5;
 - (c) subject to subsection (2),
 - (i) houses, and
 - (ii) buildings other than houses, being buildings which may be made suitable as houses,together with any lands occupied with the houses or buildings, or any right or interest in the houses or buildings;
 - (d) land for the purposes of—
 - (i) selling or leasing the land under the powers conferred by this Act, with a view to the erection on the land of houses by persons other than the local authority;
 - (ii) selling or leasing, under the powers conferred by this Act, any part of the land acquired, with a view to the use of that land for purposes which in the opinion of the local authority are necessary or desirable for, or incidental to, the development of the land as a building estate;
 - (iii) carrying out on the land works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house;

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- (iv) selling or leasing the land under the powers conferred by this Act, with a view to the carrying out on the land by a person other than the local authority of such works as are mentioned in sub-paragraph (iii).
- (2) Nothing in subsection (1)(c) shall authorise a local authority to acquire otherwise than by agreement any house or other building which is situated on land used for agriculture, and which is required in connection with that use of that land.

10 Procedure for acquiring land

- (1) Land for the purposes of this Part may be acquired by a local authority by agreement under section 70 of the Local Government (Scotland) Act 1973.
- (2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of this Part, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (3) A local authority may acquire land by agreement, or may be authorised by the Secretary of State to purchase land compulsorily, for the purposes of this Part, notwithstanding that the land is not immediately required for those purposes.
- (4) Where land is purchased compulsorily by a local authority for the purposes of this Part, the compensation payable in respect thereof shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963, subject to the rules set out in Schedule 1.

11 Local authority may take possession of land to be acquired by agreement or appropriated for purposes of this Part

- (1) Where a local authority have agreed to purchase, or have determined to appropriate, land for the purposes of this Part, subject to the interest of the person in possession of the land, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation takes effect, the authority may, after giving to the person in possession not less than 14 days' notice and subject to subsection (2), enter on and take possession of the land or such part of it as is specified in the notice without previous consent.
- (2) The powers conferred by subsection (1) are exercisable subject to payment to the person in possession of the like compensation and interest on the compensation awarded, as if the authority had been authorised to purchase the land compulsorily and that person had in pursuance of such power been required to give up possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845.

12 Powers of dealing with land acquired or appropriated for purposes of this Part

- (1) Where a local authority have acquired or appropriated any land for the purposes of this Part, then, without prejudice to any of their other powers under this Act, the authority may—
 - (a) lay out and construct roads and open spaces on the land;

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- (b) subject to subsection (5), sell or lease the land or part of the land to any person under the condition that that person will erect on it in accordance with plans approved by the local authority, and maintain, such number of houses of such types as may be specified by the authority, and when necessary will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the authority, are necessary or desirable for, or incidental to, the development of the land as a building estate in accordance with plans approved by the authority;
 - (c) subject to subsection (5), sell or lease the land or excamb it for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;
 - (d) subject to subsections (5) and (7), sell or lease any houses or any part share thereof on the land or erected by them on the land, subject to such conditions, restrictions and stipulations as they may think fit to impose in regard to the use of the houses or any part share thereof, and on any such sale they may agree to the price being secured by standard security over the subjects sold.
- (2) Where a local authority sell or lease land under subsection (1), they may contribute or agree to contribute towards the expenses of the development of the land and the laying out and construction of roads on the land, subject to the condition that the roads are dedicated to the public use.
- (3) Where a local authority have acquired a building which may be made suitable as a house, or a right or interest in such a building, they shall forthwith proceed to secure that it is so made suitable either by themselves executing any necessary work or by selling or leasing it to some person subject to conditions for securing that he will so make it suitable.
- (4) Where a local authority acquire any land for the purposes of section 9(1)(d)(iv), they may, subject to subsection (5), sell or lease the land to any person for the purpose and under the condition that that person will carry out on the land, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired.
- (5) A local authority shall not, in the exercise of their powers under subsection (1)(b), (c) or (d), or subsection (4), dispose of land which consists or forms part of a common or open space or is held for use as allotments, except with the consent of the Secretary of State.
- (6) For the purposes of subsection (5), the consent of the Secretary of State may be given either generally to all local authorities, or to any class of local authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Secretary of State may consider appropriate.
- (7) Notwithstanding anything in section 27(1) of the Town and Country Planning (Scotland) Act 1959 (power of local and other public authority to dispose of land without consent of a Minister), a local authority shall not, in the exercise of their powers under subsection (1)(d), sell or lease any house or any part share thereof to which the housing revenue account kept under section 203 relates except with the consent of the Secretary of State unless it is a house to which section 14 applies; and, in giving his consent to such transactions as are referred to in this subsection, the Secretary of State may make general directions or a direction related to a specific transaction.

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- (8) Subsection (7) shall not apply where—
- (a) the house is being sold to a tenant or to a member of his family who normally resides with him (or to a tenant together with members of his family, as joint purchasers); or
 - (b) the requirements of section 14(2)(b) are satisfied.
- (9) Subject to the provisions of the Town and Country Planning (Scotland) Act 1959, section 74 of the Local Government (Scotland) Act 1973 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall, subject to subsection (10), apply to any disposal of land by a local authority in the exercise of their powers under subsection (4), as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1973 in the exercise of any power under Part VI of that Act.
- (10) The said section 74 shall not apply to the disposal of a house by a local authority, being a disposal in relation to which subsection (7) has effect.
- (11) For the purposes of this section land shall be taken to have been acquired by a local authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under any enactment to acquire the land compulsorily; but the land shall not be taken to have been so acquired, if the local authority acquired it (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

13 Power of Secretary of State in certain cases to impose conditions on sale of local authority's houses, etc.

If any house, building, land or dwelling in respect of which a local authority are required by section 203 to keep a housing revenue account is sold by the authority with the consent of the Secretary of State, the Secretary of State may in giving consent impose such conditions as he thinks just.

14 Powers of local authorities to sell certain houses without consent of Secretary of State

- (1) Subject to section 74(2) of the Local Government (Scotland) Act 1973 (restriction on disposal of land) but notwithstanding anything contained in section 12(6) or in any other enactment, a local authority may sell any house to which this section applies without the consent of the Secretary of State.
- (2) This section applies to a house provided for the purposes of this Part, where—
- (a) the house is being sold to a tenant or to members of his family who normally reside with him (or to a tenant together with such members of his family, as joint purchasers); or
 - (b) the house is unoccupied and—
 - (i) it is not held on the housing revenue account maintained in terms of section 203; or
 - (ii) it is held on the housing revenue account and it is, in the opinion of the local authority, either surplus to its requirements or difficult to let, because it has been continuously vacant for a period of not less than

3 months immediately prior to the date of the sale and during that period it has been on unrestricted offer to any applicant on the local authority's housing list (within the meaning of section 19 (admission to housing list)).

15 Power of local authority to enforce obligations against owner for time being of land

(1) Where—

- (a) a local authority have sold or exchanged land acquired by them under this Act, and the purchaser of the land or the person taking the land in exchange has entered into an agreement with the authority concerning the land; or
- (b) an owner of any land has entered into an agreement with the local authority concerning the land for the purposes of any of the provisions of this Act;

then, if the agreement has been recorded in the General Register of Sasines, or, as the case may be, registered in the Land Register for Scotland, it shall, subject to subsection (2), be enforceable at the instance of the local authority against persons deriving title from the person who entered into the agreement.

- (2) No such agreement shall at any time be enforceable against any party who has in good faith onerously acquired right (whether completed by infestment or not) to the land prior to the recording of the agreement or against any person deriving title from such party.

16 Disposal of land for erection of churches, etc.

Where a local authority, in the exercise of any power conferred on them by this Act, dispose of land to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.