



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XIV

#### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

##### *Assistance by way of repurchase*

#### **275 Repurchase**

Schedule 20 shall have effect with respect to assistance by way of repurchase, as follows—

Part I—The agreement to repurchase.

Part II—Price payable and valuation.

#### **276 Repurchase by authority other than local authority**

Where the local authority give a notice of determination to a person stating that he is entitled to assistance by way of repurchase and they are of opinion that—

- (a) a relevant interest in the dwelling was disposed of by a public sector authority mentioned in column 1 of the following Table (or a predecessor mentioned there of such an authority),
- (b) there has been no disposal within paragraph (a) since the time of that disposal, and
- (c) any conditions mentioned in column 2 of the Table in relation to the authority are met,

they shall forthwith give that other authority a notice in writing, together with a copy of the notice of determination, stating that the authority may acquire, in accordance with this Part, the interest of the person entitled to assistance.

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TABLE

| <i>Public sector authority</i>  | <i>Conditions</i>  |
|---|--|
| 1. A registered housing association (other than a co-operative housing association) or a predecessor housing association of that association. | None.  |
| 2. The Scottish Special Housing Association.  | None.  |
| 3. A development corporation.   | None.  |
| 4. Another local authority or a predecessor of that authority.  | The local authority provide housing accommodation in the vicinity of the defective dwelling with which the dwelling may conveniently be managed. |
| 5. Any other public sector authority prescribed by order of the Secretary of State, or a predecessor so prescribed.                           | Any conditions prescribed by the order.  |

- (2) The other authority may, within the period of four weeks beginning with the service of the notice on them, give notice in writing to the local authority—
- (a) stating that they wish to acquire the interest, and
  - (b) specifying the address of the principal office of the authority and any other address which may also be used as an address for service;
- and the local authority shall forthwith give to the person entitled to assistance a transfer notice, that is, a notice in writing of the contents of the notice received by them and the effect of subsection (3).
- (3) After a transfer notice has been given to the person entitled to assistance, the other authority shall be treated as the appropriate authority for the purposes of anything done or falling to be done under this Part, except that—
- (a) a request under paragraph 2 of Schedule 21 (request for notice of proposed terms of acquisition) may be made either to the local authority or to the other authority, and
  - (b) any such request given to the local authority (whether before or after the notice) shall be forwarded by them to the other authority;
- and references in this Part to "the purchasing authority" shall be construed accordingly.
- (4) An order under this section shall be made by statutory instrument.

**277 Interest subject to right of pre-emption, etc.**

- (1) This section applies where a person ("the owner") is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a condition in the title relating to his interest in the dwelling whereby—
- (a) before disposing of the interest he must offer to dispose of it to a public sector authority, or

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- (b) in the case of an interest under a lease, he may require a public sector authority who are his landlords to accept a surrender of the lease but is otherwise prohibited from disposing of it.
- (2) If the public sector authority are the local authority in whose area the dwelling is situated, the condition in the title shall be disregarded for the purposes of Schedule 20 (repurchase).
- (3) If the public sector authority are not the local authority, the provisions of this Part as to repurchase do not apply so long as there is such a condition in the title; but if—
- (a) the owner disposes of his interest to the public sector authority in pursuance of the condition in the title or lease, and
  - (b) the interest acquired by that authority on the disposal subsists only in the land affected, that is to say, the defective dwelling and any garage, outhouse, garden, yard and pertinents belonging to or usually enjoyed with the dwelling or any part of it,
- the owner is entitled to be paid by the local authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal.
- (4) For the purposes of this section—
- (a) the "consideration for the disposal" means the amount before any reduction required by section 72 (reduction corresponding to amount of discount repayable) or any provision to the like effect, and
  - (b) the "defect-free value" means the amount that would have been the consideration for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

## **278 Compulsory purchase compensation to be made up to 95 per cent of defect-free value**

- (1) Where a person ("the owner") has disposed of an interest in a defective dwelling, otherwise than in pursuance of Schedule 20 (repurchase), to an authority possessing compulsory purchase powers and—
- (a) immediately before the time of the disposal he was eligible for assistance under this Part in respect of the dwelling,
  - (b) the amount paid as consideration for the disposal did not include any amount attributable to his right to apply for such assistance, and
  - (c) on the disposal the authority acquired an interest in any of the affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and pertinents belonging to or usually enjoyed with the dwelling or any part of it,
- he is entitled, subject to the following provisions of this section, to be paid by the local authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the amount of the compensation for the disposal.
- (2) For the purposes of this section—
- (a) the "amount of compensation for the disposal" means the amount that would have been the proper amount of compensation for the disposal (having regard to any relevant determination of the Lands Tribunal) or, if greater, the amount paid as the consideration for the disposal, and
  - (b) the "defect-free" value means the amount that would have been the proper amount of compensation for the disposal if none of the defective dwellings to

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which the designation in question related had been affected by the qualifying defect;

but excluding, in either case, any amount payable for disturbance or for any other matter not directly based on the value of land.

- (3) For the purposes of this section, it shall be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so).
- (4) Where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development, it shall be assumed for the purposes of determining the defect-free value that it did not fall to be so assessed.
- (5) The amount payable by the local authority under this section shall be reduced by the amount of any payment made in respect of the defective dwelling under section 304 or 305 (payments for well-maintained houses).
- (6) In this section "authority possessing compulsory purchase powers" has the same meaning as in the Land Compensation (Scotland) Act 1963.

#### **279 Supplementary provisions as to payments under s. 277 or 278**

- (1) The local authority are not required to make a payment to a person under—
  - (a) section 277 (making-up of consideration on disposal in pursuance of right of pre-emption, etc.), or
  - (b) section 278 (making up of compulsory purchase compensation),
 unless he makes a written application to them for payment before the end of the period of two years beginning with the time of the disposal.
- (2) Where the authority—
  - (a) refuse an application for payment under section 277 on any grounds, or
  - (b) refuse an application for payment under section 278 on the grounds that the owner was not eligible for assistance in respect of the defective dwelling,
 they shall give the applicant written notice of the reasons for their decision.
- (3) Any question arising—
  - (a) under section 277 or 278 as to the defect-free value, or
  - (b) under section 278 as to the amount of compensation for the disposal,
 shall be determined by the district valuer if the owner or the local authority so require by notice in writing served on the district valuer.
- (4) A person serving a notice on the district valuer in pursuance of subsection (3) shall serve notice in writing of that fact on the other party.
- (5) Before making a determination in pursuance of subsection (3), the district valuer shall consider any representation by the owner or the authority made to him within 4 weeks from the service of the notice under that subsection.

#### **280 Reimbursement of expenses incidental to repurchase**

- (1) A person whose interest in a defective dwelling is acquired by the purchasing authority in pursuance of Schedule 20 (repurchase) is entitled to be reimbursed by the purchasing authority the proper amount of—

- (a) expenses in respect of legal services provided in connection with the authority's acquisition, and
  - (b) other expenses in connection with negotiating the terms of that acquisition, being in each case expenses which are reasonably incurred by him after receipt of a notice under paragraph 3 of that Schedule (authority's notice of proposed terms of acquisition).
- (2) An agreement between a person and the purchasing authority is void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the authority in connection with the exercise by him of his rights under this Part.