



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XIV

#### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

##### *Effect of repurchase on occupier*

#### **281 Effect of repurchase on certain existing tenancies.**

- (1) Where an authority mentioned in section 44 (authorities satisfying the landlord condition for secure tenancy) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—
- (a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and
  - (b) the interest of the person entitled to assistance by way of repurchase is, immediately before the completion of the authority's acquisition, subject to a tenancy of the house,
- the tenancy shall not, on or after the acquisition, become a secure tenancy unless the conditions specified in subsection (2) are met.
- (2) The conditions are—
- (a) that the tenancy was a protected tenancy throughout the period beginning with the making of an application for assistance under this Part in respect of the defective dwelling and ending immediately before the authority's acquisition; and
  - (b) no notice was given in respect of the tenancy in accordance with any of Cases 11 to 14 and 16 to 21 in Schedule 2 to the <sup>M1</sup>Rent (Scotland) Act 1984 (notice that possession might be recovered under that Case) or under section [F19(1)(d) of the Rent (Scotland) Act 1984] (notice that tenancy is to be a protected short tenancy).

*Status: Point in time view as at 01/02/1991.*

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#### Textual Amendments

- F1** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 21](#)

#### Marginal Citations

- M1** [1984 c. 58](#).

## 282 Grant of tenancy to former owner-occupier.

- (1) Where an authority acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), or in the circumstances described in section 277(3) (exercise of right of pre-emption, etc.), and—
- (a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and
  - (b) an individual is an occupier of the house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - (c) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or the persons so entitled are in relation to the interest concerned his trustees,
- the authority shall, in accordance with this section, either grant or arrange for him to be granted a tenancy of that house or another on the completion of their acquisition of the interest concerned.
- (2) If the authority are among those mentioned in section [<sup>F2</sup>44(2)] (public sector authorities capable of granting secure tenancies) their obligation is to grant a secure tenancy.
- (3) In any other case their obligation is to grant or arrange for the grant of either—
- (a) a secure tenancy, or
  - (b) a protected tenancy other than one under which the landlord might recover possession under one of the cases in Part II of Schedule 2 to the <sup>M2</sup>Rent (Scotland) Act 1984 (cases in which the court must order possession).
- (4) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same house, the authority shall grant the tenancy, or arrange for it to be granted, to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

#### Textual Amendments

- F2** Figure substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 22](#)

#### Marginal Citations

- M2** [1984 c. 58](#).

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## 283 Grant of tenancy to former statutory tenant.

- (1) Where an authority mentioned in section 44 [<sup>F3</sup>(2)] (public sector authorities capable of granting secure tenancies) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), and—
- (a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and
  - (b) an individual is an occupier of a house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and
  - (c) he is a statutory tenant of the house at the end of that period, and
  - (d) no notice was given in respect of the original tenancy in accordance with any of Cases 11 to 14 and 16 to 21 in Schedule 2 to the Rent (Scotland) Act 1984 (notice that possession might be recovered under that Case) or under section [<sup>F4</sup>9(1)(d) of the Rent (Scotland) Act 1984 (notice that the tenancy is to be a short tenancy)], and
  - (e) the interest of the person entitled to assistance would, if the statutory tenancy were a contractual tenancy, be subject to the tenancy at the end of the period mentioned in paragraph (b),
- the authority shall grant him a secure tenancy (of that house or another) on the completion of their acquisition of the interest concerned.
- (2) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same house, the authority shall grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.
- (3) If at any time after the service of a notice of determination it appears to the purchasing authority that a person may be entitled to request them to grant him a secure tenancy under this section, they shall forthwith give him notice in writing of that fact.

### Textual Amendments

- F3** Figure inserted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 23\(a\)](#)
- F4** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 23\(b\)](#)

## 284 Alternative accommodation under s.282 or 283.

- (1) The house to be let under the tenancy granted to a person—
- (a) under section 282 or 283 (grant of tenancy to former owner-occupier or statutory tenant of defective house acquired by authority), or
  - (b) under arrangements made for the purposes of section 283,
- shall be the house of which he is the occupier immediately before the completion of the authority's acquisition (the "current house"), except in the following Cases—

Case 1

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By reason of the condition of any building of which the current house consists or of which it forms part, the house may not safely be occupied for residential purposes.

Case 2

The authority intend, within a reasonable time of the completion of their acquisition of the interest concerned—

- (a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or
- (b) to carry out work on any building or land in which the interest concerned subsists,

and cannot reasonably do so if the current house remains in residential occupation.

- (2) In those Cases the house to be let shall be another house which, so far as is reasonably practicable in the case of that authority, affords accommodation which is—
  - (a) similar as regards extent and character to the accommodation afforded by the current house,
  - (b) reasonably suitable to the means of the prospective tenant and his family, and
  - (c) reasonably suitable to the needs of the prospective tenant and his family as regards proximity to place of work and place of education.

**285 Request for tenancy under s.282 or 283.**

- (1) An authority are not required to grant, or arrange for the grant of, a tenancy to a person under section 282 or 283 unless he requests them to do so in writing before—
  - (a) in the case of an acquisition under Schedule 20 (repurchase), the service on the person entitled to assistance of an offer to purchase under [F5 paragraph 3] of that Schedule, or
  - (b) in the case of an acquisition in the circumstances described in section 277(3) (acquisition in pursuance of right of pre-emption, etc.), the time of the disposal.
- (2) An authority receiving a request under subsection (1) shall, as soon as reasonably practicable, give notice in writing to the person making the request stating whether in their opinion either of the Cases in section 284(1) applies (cases in which tenancy may be of a house other than the current house).
- (3) If their opinion is that either Case does apply, the notice shall also state which of the Cases is applicable and the effect of section 284.

**Textual Amendments**

**F5** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 24](#)

**286 Interpretation of ss.281 to 285.**

In sections 281 to 285 (effect of repurchase on occupier)—

- (a) “house” has the same meaning as in Part III (secure tenancies);

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- (b) “occupier”, in relation to a house, means a person who occupies the house as his only or principal home or (in the case of a statutory tenant) as his residence;
- (c) references to the grant of a secure tenancy are to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the house as his only or principal home.

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