

# HOUSING (SCOTLAND) ACT 2006

---

## EXPLANATORY NOTES

### COMMENTARY ON PARTS

#### Part 2 – Scheme of Assistance for Housing Purposes

##### Grants and loans

100. **Section 74** states that a person can obtain a grant or loan only if they make an application to the local authority. The application must include full details of the proposed work, including plans and specifications, the location of the work, an estimate of the cost of the work, and other information which may be required, particularly to carry out any financial assessment. If the applicant does not wish to apply for the full costs of the work, they may state the amount they are applying for. A local authority may require the applicant to provide information supporting the accuracy of the details in the application. The application will not be processed if such additional information is not provided.
101. **Section 75** gives the local authority discretion to approve or refuse an application for a grant or loan. If an application is approved, the local authority must work out the approved expense and, where application is made for a grant or subsidised loan, the applicant's contribution. The local authority may only approve an application for a grant or loan if it considers that the owners of all the land on which the work is to be carried out have given written consent to the application and to being bound by the conditions of grant or loan; the house will provide satisfactory housing accommodation for a reasonable time and meet reasonable standards of physical condition and amenities; and the work will not prevent the improvement of any other house in the same building. The local authority must not approve an application if the work has already begun, unless there were good reasons for starting the work early. A standard loan may only be given if the local authority is satisfied that the applicant would be unable to obtain a sufficient loan on reasonable and affordable terms from a legally authorised commercial lender. The local authority may require that the work is completed within a specified period, which must not be less than 12 months.
102. **Section 76** defines the approved expense in relation to the work referred to in an application for grant or loan. It is the amount that the local authority considers reasonable for the work it considers eligible for assistance, subject to any cap set out in the authority's statement of criteria. If the cost of work rises due to circumstances beyond the applicant's control, the authority may increase the approved expense. The Scottish Ministers may by order specify a maximum amount for the approved expense for a grant or loan. Local authorities may only exceed an amount so specified with the consent of Ministers. Local authorities may not limit the approved expense in the case of a grant to carry out works required to make a house suitable for a disabled person, whose only or main residence it is, or to reinstate a house that has been so adapted.
103. **Section 77** gives the Scottish Ministers power to make regulations for means-testing of grants and subsidised loans. Such regulations would set out a method for assessing an amount to be contributed by the applicant towards the approved expense. The

assessment may take into account the financial circumstances of the applicant and their household or dependants, and any other criteria set by Ministers. The regulations may allow a local authority, with Ministers' consent, to reduce the applicant's contribution for different types of case.

104. **Section 78** establishes the procedure a local authority must follow if an applicant requests a review of their assessment.
105. **Section 79** deals with the amount of a grant or loan. The amount of a standard (unsubsidised) loan is the total of the approved expense. The amount of a subsidised loan is also the approved expense, but this is divided into an interest-free element and a repayment element. The amount of a grant, or of the interest-free element of a subsidised loan, is the greater amount of two options. The first is the approved expense minus the applicant's contribution, as calculated under **section 77**. The second, which applies in cases that the Scottish Ministers have specified in regulations, is a specified percentage of the approved expense, or a percentage set by the local authority with the consent of Ministers. A grant or loan calculated in the second way is called a "minimum percentage" grant or loan.
106. **Section 80** allows a local authority to set the terms for a standard loan or the repayment element of a subsidised loan, including provisions on interest (or other charges) and repayment. The local authority may not require repayment of the interest free element until the applicant to whom the loan is made disposes of an interest in the house by sale or otherwise, except by the grant of a standard security or a servitude or by means of a lease. An example could be on sale of the house. The local authority may require the loan and interest to be secured by a standard security over the house.
107. **Section 81** deals with notification of a local authority's decision on grant or loan applications. If the authority approves the application, it must inform the applicant of the approved expense, the applicant's contribution, the amount of the grant or loan (stating that this is a minimum percentage grant or loan, where appropriate), and the terms of the offer of loan (including interest and repayment terms) or grant. If the owner is a different person, the authority must inform the owner of the amount and terms of the loan or grant. Where a loan is offered, the notice must advise the applicant to obtain independent advice on its terms from a suitably qualified person. If the local authority refuses an application or sets the approved expense at an amount less than was applied for, it must provide the applicant with written notice of its reasons.
108. **Section 82** requires the local authority to pay a grant or loan either within one month of the date on which the local authority considers that the house is fit for occupation on completion of the relevant work, or by instalments while the work is being done, with a final instalment within one month of completion. Payment is subject to the local authority being satisfied with the standard of the work completed. No money may be paid on a secured loan before the standard security has been registered. If a grant is paid in instalments, the amount paid at any time must be in proportion with the grant percentage, for example, if the amount of grant is 75% of the approved expense, the total amount paid at any time must be no more than 75% of the cost of works completed up to that time. Where an instalment of grant or loan is paid before completion, and the work is not completed within 12 months of the date of that payment, the local authority may require repayment of the instalment and any subsequent instalments, along with interest from each date of payment. The local authority may set the rate of interest.