

HOUSING (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 – Scheme of Assistance for Housing Purposes

Grants and loans: conditions

109. **Section 83** sets conditions which must be complied with in respect of land or premises where work has been done with grant or loan assistance. The conditions apply from the date on which the local authority considers that the house is fit for occupation on completion of the relevant work. In the case of a grant, they end 10 years after that date. In the case of a subsidised loan, they end either 10 years after that date or when the repayment element of the loan and any interest or charge on it is fully repaid, whichever is later. In the case of a standard loan, the conditions cease to apply when the loan and any interest are fully repaid. The first three conditions are: a house to which the conditions apply must be used as a private dwelling (although part of it can be used for business); if it is occupied by the owner or a member of their family it must be their only or main residence; and the property must be kept in good repair. Only this last condition applies to non-residential premises which have received grant. In addition the owner must, if required to do so, certify to the local authority that the relevant conditions are being met.
110. When a grant or loan is paid, the local authority must record a notice, in terms of **section 84**, in the appropriate land register, either the General Register of Sasines or the Land Register of Scotland. The notice must specify the conditions set out in **section 83**, the period for which they apply, and the provisions in **section 86** requiring the owner to repay the relevant amount if the conditions are not met. The costs of recording the notice are to be paid by the applicant to whom the grant or loan is paid.
111. **Section 85** allows the owner (or a creditor in a standard security with a right to sell) to discharge the conditions on a house resulting from a loan or grant by paying the local authority the sum that would be due if the conditions were breached. The conditions are also discharged when a local authority demands payment following a breach of any of them. In either of these cases, the local authority must register a further notice to specify that the conditions no longer apply. The owner of the house must pay the local authority the expenses of registering the notice. If a creditor in a standard security makes a payment to discharge the conditions, the sum concerned forms part of the amount secured by the standard security.
112. **Section 86** requires that, if any of the conditions in **section 83** are breached, the local authority must demand repayment from the owner of the house. However, if the authority believes that the breach can be remedied, it may allow time for this to be done. If the breach is remedied within the period set, the local authority may disregard it. If the authority considers that the breach cannot be remedied, but the owner was not responsible for it, it may disregard the breach. Either of these actions requires the consent of Ministers, who may approve conditions to apply to the suspension or

*These notes relate to the Housing (Scotland) Act 2006
(asp 1) which received Royal Assent on 5 January 2006*

disregard. The authority also has power to apply to the sheriff for an interdict to correct or forestall a breach of the conditions.

113. **Section 87** establishes how the sum to be paid to a local authority if conditions are breached is calculated. Where a grant was given, the amount is the whole grant plus interest on it. A standard loan has to be repaid in full, with the unpaid interest up to the date of repayment. Where a subsidised loan was given, the whole loan has to be repaid, plus unpaid interest on the repayment element up to the date of repayment, plus interest on the interest-free element up to that date.