



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 2 **S**

#### SCHEME OF ASSISTANCE FOR HOUSING PURPOSES

##### *Provision of assistance for housing purposes*

#### 71 Assistance for housing purposes **S**

- (1) A local authority may provide or arrange for the provision of assistance to a person in connection with—
- (a) the acquisition or sale (or the proposed acquisition or sale) of a house, or
  - (b) work<sup>[F1]</sup>(including demolition work)] on any land or in any premises for any of the purposes mentioned in subsection (2).
- (2) Those purposes are—
- (a) provision of one or more houses by the conversion of a house or other premises,
  - (b) construction of a house,
  - (c) improvement, repair or maintenance of a house,
  - <sup>[F2]</sup>(da) demolishing a house,
  - (d) bringing any house into, or keeping any house in, a reasonable state of repair,
  - (e) adaptation of a house for a disabled person to make it suitable for the accommodation, welfare or employment of that person,
  - (f) reinstatement of any house adapted for the purpose set out in paragraph (e),
  - (g) provision, in relation to a house, of means of escape from fire and other fire precautions.
- (3) Such assistance may, in particular, be in the form of—
- (a) the provision of advice, training or other services and facilities,
  - (b) the provision of information relating to housing,
  - (c) making available the services of staff of the local authority,
  - (d) guaranteeing or joining in guaranteeing the payment of the principal of, and interest on, money borrowed by the person (including money borrowed by the issue of loan capital) or of interest on share capital issued by the person,

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- (e) payments in respect of any expenses incurred in connection with the opening of a maintenance account,
  - (f) acquiring, holding, managing and disposing of land or premises,
  - (g) grants,
  - (h) standard loans,
  - (i) subsidised loans.
- (4) Assistance may be provided on such terms as the authority thinks fit (subject to any provision about such terms made by or under this Part).
- (5) Sections 74 to 90, 92 and 93 do not apply to assistance provided under subsection (1) (a).
- (6) The Scottish Ministers may by regulations make further provision about the provision of assistance under subsection (1).
- (7) Those regulations may, in particular, make provision as to—
- (a) the procedure to be followed by local authorities in—
    - (i) considering whether to provide such assistance,
    - (ii) providing or arranging for the provision of such assistance,
  - (b) the terms which may be imposed under subsection (4) on providing any such assistance (including provision restricting or requiring the imposition of a term).
- (8) In this section, “house for a disabled person” means a house which—
- (a) is a disabled person's residence at the time when assistance is first provided, or
  - (b) is likely in the opinion of the local authority to become a disabled person's residence within a reasonable period after that time.

#### Textual Amendments

- F1** Words in s. 71(1)(b) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 151(a)**, 166(2); [S.S.I. 2011/96](#), art. 2, Sch.
- F2** S. 71(2)(da) inserted (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 151(b)**, 166(2); [S.S.I. 2011/96](#), art. 2, Sch.

#### Commencement Information

- I1** S. 71 in force at 1.4.2009 by [S.S.I. 2009/122](#), art. 3

## 72 Guidance about availability and amount of assistance **S**

- (1) A local authority must prepare and make publicly available a statement of—
- (a) the criteria by reference to which it determines whether to provide assistance under section 71(1) in particular types of case and the form of the assistance,
  - (b) the circumstances in which the approved expense relating to assistance provided by way of a grant or loan may be limited in a manner specified in the statement (see section 76(5) and (6)),
  - (c) the rate of interest or the rate or amount of other charges payable on a standard loan or on the repayment element of a subsidised loan.
- (2) Such a statement may make different provision for different cases.

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- (3) The local authority may revise or replace such a statement.

**Commencement Information**

**I2** S. 72 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**73 When assistance must be provided S**

- (1) A local authority must provide assistance—
- (a) under section 71(1)(b) to the owner of a house (or any non-residential premises forming part of the same building as a house) in respect of work in the house (or those premises) which the owner is required by a work notice to carry out, and
  - (b) in connection with work in a house for either of the purposes set out in paragraphs (e) and (f) of section 71(2), where the house is (or is likely to become or, in the case of a reinstatement, was) a disabled person's only or main residence.
- (2) Where assistance provided under subsection (1)(b) is in respect of work required for providing a house with one or more of the standard amenities such assistance must be provided by way of a grant if—
- (a) the house lacks one or more of the standard amenities and, in the opinion of the authority, the amenity or amenities to be provided will meet the needs of a disabled person, or
  - (b) the house already has the standard amenity in question but, in the opinion of the authority, the amenity to be provided is essential to the needs of a disabled person.
- (3) The Scottish Ministers may by regulations make further provision about the type of assistance which must be provided under subsection (1)(b).
- (4) Regulations under subsection (3) may, in particular, specify more circumstances in which such assistance must be provided by way of a grant.
- (5) A local authority complies with this section if it invites a person to apply for a grant or loan in pursuance of subsection (1) or, as the case may be, a grant in pursuance of subsection (2) and the grant or loan is not provided because—
- (a) no application is made,
  - (b) the application is not made in accordance with section 74, or
  - (c) any of the conditions mentioned in section 75(4) (so far as applicable) is not satisfied.
- (6) The standard amenities are the amenities mentioned in section 86(1)(e), (f) and (fa) of the 1987 Act.
- (7) The Scottish Ministers may by order add or remove references in subsection (6) to paragraphs of section 86(1) of the 1987 Act.

**Commencement Information**

**I3** S. 73 in force at 29.9.2008 for specified purposes by S.S.I. 2008/308, art. 3

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**14** S. 73 in force at 1.4.2009 in so far as not already in force by S.S.I. 2009/122, art. 3

### *Grants and loans*

#### **74 Grants and loans: applications** **S**

- (1) A grant or loan may be made only on an application to the local authority.
- (2) The application must contain full particulars of—
  - (a) the work in question, including plans and specifications of the work,
  - (b) the land on or premises in which the work is to be, or is being, carried out,
  - (c) the expenses (including any professional fees) estimated to be incurred in carrying out the work, and
  - (d) such other matters, including information on the matters mentioned in section 77, as may be required by regulations under section 188.
- (3) Where the application is for an amount of grant or loan representing a proportion of the total expense estimated under subsection (2)(c), the application must specify that proportion.
- (4) A local authority may require an applicant to provide, within such reasonable period as it may specify, such information as it considers necessary to satisfy itself that the information in the application form is accurate.
- (5) The authority must disregard any application from an applicant who fails to comply with such a requirement.

#### **Commencement Information**

**15** S. 74 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

#### **75 Determination of applications** **S**

- (1) Subject to the provisions of this Part, it is for the local authority to decide whether to approve an application for a grant or loan.
- (2) On approving an application, the local authority must then determine—
  - (a) the approved expense in accordance with section 76, and
  - (b) where the application is for a grant or subsidised loan, the applicant's contribution under section 77.
- (3) A local authority may approve an application for a grant or loan only if, in its opinion, all of the conditions in subsection (4) (so far as applicable) are satisfied.
- (4) Those conditions are—
  - (a) that the owners of any land on or premises in which the work is to be, or is being, carried out (other than land or premises proposed to be sold or leased under section 12(4) of the 1987 Act) have consented in writing to the application and to being bound by the conditions mentioned in section 83 (in so far as those conditions apply),
  - (b) where that work has begun, that there were good reasons for beginning it before the application was approved,

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- (c) that the house or houses to which the application relates will provide suitable living accommodation for such period, and conform with such requirements with respect to construction and physical condition and the provision of services and amenities, as the authority considers reasonable,
- (d) that, if the house or houses to which the application relates form part of any premises containing more than one house, the work to be carried out will not prevent the improvement of any other house in the premises, and
- (e) that, in the case of an application for a standard loan, the applicant is unable to obtain a sufficient loan on fair terms from a commercial lender.

(5) In subsection (4)(e)—

“commercial lender” means a person who—

- (a) has permission under [<sup>F3</sup>Part 4A] of or is otherwise authorised under the Financial Services and Markets Act 2000 (c. 8) to pay money under a contract on terms under which it will be repaid or otherwise [<sup>F4</sup>to enter into a contract of the kind mentioned in paragraph 23 or paragraph 23B of Schedule 2 to that Act (credit agreements and contracts for hire of goods), or],
- (b) is an exempt person within the meaning of that Act in relation to the activity mentioned in paragraph (a), [<sup>F5</sup>and]
- (c) <sup>F6</sup> ...

“fair terms” means terms which, in the opinion of the local authority, are reasonable and affordable having regard to the circumstances of the applicant and the interest rates prevailing at the time the loan was applied for.

(6) Subsection (5)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

(7) The authority may, as a condition of paying the grant or loan, impose a requirement that the work to which the grant or loan relates is completed within such period (being a period of not less than 12 months) as the authority may specify or within such further period as the authority may allow.

#### Textual Amendments

- F3** Words in s. 75(5)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 140](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.
- F4** Words in s. 75(5)(a) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 46\(a\)](#)
- F5** Word in s. 75(5)(b) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 46\(b\)](#)
- F6** XXXS. 75(5)(c) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\), art. 1\(2\)\(6\), Sch. para. 46\(b\)](#)

#### Commencement Information

- I6** S. 75 in force at 1.4.2009 by [S.S.I. 2009/122, art. 3](#)

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## 76 The approved expense **S**

- (1) The approved expense, in relation to the work referred to in an application for a grant or loan, is the amount of—
  - (a) the expense of carrying out the work, or
  - (b) the proportion of that expense (as specified in the application),
 which the local authority considers reasonable.
- (2) If, after approving an application for a grant or loan, the authority is satisfied that—
  - (a) the expense of carrying out the work will exceed the expense estimated in the application, and
  - (b) the increase is due to circumstances beyond the control of the applicant,
 the authority may, on receipt of a further estimate, substitute a higher amount as the amount of the approved expense in accordance with subsection (1).
- (3) Subsections (1) and (2) are subject to subsections (4) and (5).
- (4) The Scottish Ministers may, by order, provide that the approved expense in relation to a grant or loan must not, unless they otherwise consent, exceed such amount as may be specified in the order.
- (5) In circumstances mentioned in a statement prepared under section 72(1)(b), a local authority may limit the amount of the approved expense in relation to a particular grant or loan to an amount determined in the manner specified in the statement.
- (6) Despite subsection (5), a local authority may not limit the amount of the approved expense in relation to an application falling within subsection (7) unless—
  - (a) the Scottish Ministers consent to the limitation, or
  - (b) the approved expense would otherwise exceed the amount specified in an order under subsection (4).
- (7) An application falls within this subsection if it is made in connection with work in a house for either of the purposes set out in paragraphs (e) and (f) of section 71(2), where the house is (or is likely to become or, in the case of reinstatement, was) a disabled person's only or main residence.

### Commencement Information

**I7** [S. 76](#) in force at 1.4.2009 by [S.S.I. 2009/122](#), [art. 3](#)

## 77 Assessment of applicant's contribution **S**

- (1) The Scottish Ministers may by regulations make provision for the assessment, in relation to such classes of application for a grant or a subsidised loan as the regulations may specify, of an amount to be treated, for the purposes of this Part, as the applicant's contribution towards the approved expense (“the applicant's contribution”).
- (2) Regulations under subsection (1) may provide for the assessment to be by reference to—
  - (a) the income and other financial circumstances of any of the following—
    - (i) the applicant,
    - (ii) the applicant's spouse or civil partner,

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- (iii) any person on whom the applicant is dependent or who is dependent on the applicant,
  - (iv) any person who resides or intends to reside with the applicant,
  - (b) such other criteria as the Scottish Ministers think fit.
- (3) Regulations under subsection (1) may make provision—
- (a) for a local authority, with the consent of the Scottish Ministers, to reduce the applicant's contribution by an amount determined by the authority in such cases as may be specified in the regulations,
  - (b) for the delegation of functions conferred by this section.

#### Commencement Information

**18** S. 77 in force at 29.9.2008 for specified purposes by S.S.I. 2008/308, art. 3

**19** S. 77 in force at 1.4.2009 in so far as not already in force by S.S.I. 2009/122, art. 3

### 78 Applicant's contribution: review **S**

- (1) Where an applicant for a grant or a subsidised loan requests a review of an assessment of the applicant's contribution, the local authority must review the assessment.
- (2) A request for a review must be made before the end of the period of 21 days beginning with the day on which the notice under section 81(1) was given or such longer period as the authority may allow.
- (3) A review under subsection (1) is to be carried out by a person senior to the person who made the assessment being reviewed and who had no involvement in the making of the assessment.
- (4) The authority must notify the applicant of the decision reached on the review.
- (5) There is no right to request a review of a decision reached on review.

#### Commencement Information

**110** S. 78 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

### 79 Amount of grant or loan **S**

- (1) The amount of a grant is the greater of—
  - (a) the approved expense less the applicant's contribution (if any), or
  - (b) where subsection (6) applies, the amount determined by virtue of that subsection.
- (2) The amount of a standard loan is the approved expense (unless section 88(1)(b) applies).
- (3) The amount of a subsidised loan is the approved expense which is divided into two elements—
  - (a) an interest free element, and
  - (b) a repayment element.

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- (4) The amount of the interest free element is the greater of—
  - (a) the approved expense less the applicant's contribution (if any), or
  - (b) where subsection (6) applies, the amount determined by virtue of that subsection.
- (5) The amount of the repayment element is the approved expense less the amount of the interest free element.
- (6) In such cases as the Scottish Ministers may specify in regulations, the amount for the purposes of subsection (1)(b) and (4)(b) is such percentage of the approved expense as may be so specified or such other percentage as a local authority may, with the consent of the Scottish Ministers, determine.
- (7) Where the amount of a grant or of the interest free element of a subsidised loan is determined by virtue of subsection (6), the grant or subsidised loan is referred to in this Part as a “minimum percentage” grant or loan.

#### **Commencement Information**

**I11** S. 79 in force at 29.9.2008 for specified purposes by S.S.I. 2008/308, **art. 3**

**I12** S. 79 in force at 1.4.2009 in so far as not already in force by S.S.I. 2009/122, **art. 3**

## **80 Terms of loan** **S**

- (1) A loan may be made on such terms as the local authority thinks fit.
- (2) Those terms may include—
  - (a) terms as to interest, other charges and repayment,
  - (b) a requirement that the loan, and any such interest and charges, be secured by a standard security over the land on or premises in which the work to which the loan relates is carried out.
- (3) But, despite subsection (1)—
  - (a) no interest or other charge is to be payable in respect of the interest free element of a subsidised loan,
  - (b) the local authority may not demand repayment of that element of such a loan (or any part of it) unless the applicant to whom the loan is paid disposes of an interest in the land or premises, and
  - (c) the repayment element of such a loan is to be repaid in instalments of such amounts and at such times as the authority may determine.
- (4) For the purposes of this section, a person is to be treated as disposing of an interest in any land or premises if—
  - (a) the person disposes of the land or premises (or any part of it or them) by way of sale, exchange or gift, or by way of the creation of any right or privilege over that interest or by any other way except by way of lease, the grant of a standard security or other charge or the creation of a servitude, or
  - (b) where the person holds an interest as tenant, the person ceases to be entitled to occupy the land or premises as tenant.



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#### Commencement Information

**I13** S. 80 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

### 81 Notification of decisions **S**

- (1) On approving an application for a grant or loan the local authority must notify the applicant of—
  - (a) the approved expense,
  - (b) the applicant's contribution (where it has been assessed under section 77),
  - (c) the amount of the grant or loan (and, where the grant or loan is a minimum percentage grant or loan, a statement of that fact), and
  - (d) the terms (including, in the case of a loan, terms as to interest and repayment) on which the grant or loan is offered.
- (2) Where the applicant is not the owner of the land on or premises in which the work to which the application relates is to be, or is being, carried out, the local authority must notify the owner of the matters mentioned in subsection (1)(c) and (d).
- (3) In relation to a loan the notice must also advise the applicant to obtain independent advice from a suitably qualified person on the terms on which the loan is offered.
- (4) Where an authority—
  - (a) refuses an application, or
  - (b) approves an application but fixes as the approved expense in respect of any land or premises an amount less than the amount of the expense estimated in the application or, as the case may be, the proportion of that expense specified in the application in respect of that land or those premises (unless the approved expense is the maximum amount which may be fixed by virtue of an order made under section 76(4)),it must notify the applicant of the reasons for its decision.

#### Commencement Information

**I14** S. 81 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

### 82 Payment of grants and loans **S**

- (1) A local authority must, if the conditions mentioned in subsection (2) are satisfied, pay a grant or loan—
  - (a) within one month of the date on which, in the authority's opinion, the house to which the grant or loan relates becomes fit for occupation on completion of the work to which the grant or loan relates, or
  - (b) by instalments during the carrying out of the work and a final instalment within one month of that date.
- (2) Those conditions are—
  - (a) that the work has been carried out to the satisfaction of the authority, and
  - (b) in the case of a loan to be secured by a standard security, that the security has been registered in the appropriate land register.

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

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- (3) Where payment of a loan is by instalments, subsection (2)(b) applies to payment of the first instalment.
- (4) The payment of an instalment is conditional on the part of the work which the authority considers will entitle the applicant to payment of the instalment having been carried out to the satisfaction of the authority.
- (5) The aggregate of instalments of a grant paid before the completion of the work must not at any time exceed the sum calculated using the following formula—

$$\frac{G}{A} \times W$$

where—

G is the amount of the grant,

A is the approved expense, and

W is the amount of the approved expense referable to the work carried out up to that time.

- (6) Subsection (7) applies where—
  - (a) an instalment of a grant or loan is paid before completion of the work, and
  - (b) the work is not completed within 12 months of the date of payment.
- (7) Where this subsection applies, the applicant to whom the instalment is paid must, if the authority so requires, repay to the authority the instalment and any subsequent instalments together with interest from the date on which each instalment was paid at such rate as the authority may determine.

**Commencement Information**

**I15** S. 82 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

*Grants and loans: conditions*

**83**      **Conditions applicable on completion of work** **S**

- (1) Conditions A to D apply for the period mentioned in subsection (3) with respect to any land on or premises in which work to which an approved grant or loan relates is carried out.
- (2) But conditions A and B do not apply where the work is carried out on land or in any premises which is not a house (unless that land is or, as the case may be, those premises are converted by the work into a house).
- (3) That period is the period—

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- (a) beginning with the date on which the work is completed (which cannot be before the house to which the grant or loan relates becomes, in the authority's opinion, fit for occupation), and
  - (b) ending—
    - (i) in the case of a grant, 10 years after that date,
    - (ii) in the case of a subsidised loan, 10 years after that date or on the date on which the repayment element of the loan and any interest or other charge on it is repaid in full, whichever is the later,
    - (iii) in the case of a standard loan, on the date on which the loan and any interest or other charge on it is repaid in full.
- (4) Condition A is that the house must be used as a private dwelling; but that does not prevent the use of part of the house as a shop or office or for business, trade or professional purposes.
- (5) Condition B is that the house must not be occupied by the owner or a member of the owner's family (within the meaning of section 83 of the 1987 Act) except as that person's only or main residence.
- (6) Condition C is that the owner of the land or premises must take all practicable steps to keep it in a good state of repair.
- (7) Condition D is that the owner of the land or premises must, if required to do so by the local authority, certify that the conditions A to C are, in so far as they apply, being observed.

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**Commencement Information**

**I16** S. 83 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

## 84 Registration of conditions **S**

- (1) On paying a grant or loan or, in the case of a grant or loan payable by instalments, the final instalment, the local authority must register notice of that fact in the appropriate land register.
- (2) Subsection (1) does not apply where the applicant for the grant or loan was a tenant-at-will (within the meaning of section 20(8) of the Land Registration (Scotland) Act 1979 (c. 33)) unless the applicant has, since applying, acquired the landlord's interest in the tenancy.
- (3) But in that case the local authority must keep a written record.
- (4) A notice under subsection (1) and a written record under subsection (3) must specify—
  - (a) the conditions mentioned in section 83 which apply with respect to the land or premises,
  - (b) the period for which they are to be complied with, and
  - (c) the provisions of section 86 under which, if the conditions are breached, the owner becomes liable to repay the amount repayable by virtue of that section.
- (5) The applicant to whom the grant or loan is paid must pay to the local authority the amount of the expenses of registering the notice under subsection (1).

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

**Commencement Information**

**I17** S. 84 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**85 Discharge of conditions** **S**

- (1) At any time when the conditions mentioned in section 83 require to be complied with in relation to any land or premises, the owner or a creditor in a standard security with a right to sell may pay to the local authority the sum which would be payable by virtue of section 86 in the event of a breach of those conditions.
- (2) The reference in subsection (1) to a “right to sell” is a reference to the right of the creditor to sell the land or premises under—
  - (a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), or
  - (b) a warrant granted under section 24(1) of that Act.
- (3) On the making of the payment observance of those conditions ceases to be required.
- (4) Where, following a breach of any of those conditions, the local authority demands payment under section 86(1), observance of the conditions mentioned in section 83 ceases to be required.
- (5) On the making of a payment referred to in subsection (3) or a demand for payment referred to in subsection (4) the authority must—
  - (a) if a notice was registered under subsection (1) of section 84, register a further notice in the appropriate land register,
  - (b) if a written record was kept under subsection (3) of that section, amend that record,
 specifying that observance of the conditions is no longer required.
- (6) The owner for the time being of the land or premises must pay to the local authority the amount of the expenses of registering the notice under subsection (5).
- (7) A sum paid under subsection (1) by a creditor in a standard security forms part of the sum secured by the standard security.

**Commencement Information**

**I18** S. 85 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**86 Breach of conditions of grant or loan** **S**

- (1) In the event of a breach of any of the conditions mentioned in section 83 which apply to any land or premises, the local authority must, subject to subsections (2) to (4), demand from the owner for the time being of the land or premises payment of the sums specified in section 87.
- (2) If the authority is satisfied that the breach of any condition can be remedied it may, with the consent of the Scottish Ministers and subject to any conditions imposed by them, suspend the operation of subsection (1) for such period as they consider necessary to enable the breach to be remedied.

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- (3) If the breach is remedied within that period the authority may direct that the breach is to be disregarded for the purposes of this section.
- (4) If the authority—
  - (a) considers that the breach cannot be remedied, but
  - (b) is satisfied that it was not due to the act, default or connivance of the owner for the time being of the land or premises,it may, with the consent of the Scottish Ministers and subject to any conditions approved by them, direct that the breach is to be disregarded for the purposes of this section.
- (5) On the application of the authority the sheriff within whose jurisdiction the land is, or premises are, situated may, whether or not any other relief is claimed, grant an interdict restraining a breach or apprehended breach of any of those conditions.

#### Commencement Information

**I19** S. 86 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

## 87 Calculation of amount to be paid on breach of conditions **S**

- (1) In the case of a grant, the sums mentioned in section 86(1) are—
  - (a) the whole amount of the grant in relation to the work in question, and
  - (b) interest on the grant accruing from the date of its payment or, where it was paid by instalments, from the date of payment of the final instalment to the date on which the amount mentioned in paragraph (a) is paid.
- (2) In the case of a standard loan, those sums are—
  - (a) the whole amount of the loan in relation to the work in question, and
  - (b) any interest or other charge on the loan which has accrued to the date on which the amount mentioned in paragraph (a) is paid and which remains outstanding on that date.
- (3) In the case of a subsidised loan, those sums are—
  - (a) the whole amount of—
    - (i) the repayment element, and
    - (ii) the interest free element,of the loan in relation to the work in question,
  - (b) any interest or other charge on the repayment element which has accrued to the date on which the amount mentioned in paragraph (a)(i) is paid and which remains outstanding on that date, and
  - (c) any interest or other charge on the interest free element, for which the applicant would have been liable had that element been treated as forming part of the repayment element and which would have accrued to the date on which the amount mentioned in paragraph (a)(ii) is paid.
- (4) The reference to “interest” in subsection (1)(b) is to compound interest at such reasonable rate as the local authority determines and with yearly rests.

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

**Commencement Information**

**I20** S. 87 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

*Miscellaneous and supplementary*

**88 Limitation on further grant and loan applications** S

- (1) Where an application for a grant or subsidised loan has been approved in respect of any work—
  - (a) a local authority must not approve a further grant or, as the case may be, subsidised loan in respect of the same work, but
  - (b) where an application for a grant has been approved, a local authority may approve an application for a standard loan in respect of the same work for an amount not exceeding the amount of the approved expense less the amount of the grant.
- (2) Where an application for a grant or a subsidised loan has been approved in respect of any work, the local authority must not, within the period of 10 years beginning with the date on which the application was approved, approve a further application for a grant or subsidised loan in respect of the land on or premises in which the work is carried out unless it is satisfied that at least one of the conditions set out in subsection (3) applies.
- (3) Those conditions are—
  - (a) that the need for the work to which the further application relates was not reasonably foreseeable when the original application was approved,
  - (b) that it would not have been reasonably practicable to carry out that work at the same time as the work to which the original application related,
  - (c) that the work to which the further application relates was not considered by the authority to be eligible for a grant or subsidised loan when the original application was approved,
  - (d) the application is made in response to an invitation made by the authority to the applicant under section 90(1).

**Commencement Information**

**I21** S. 88 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**89 Grant and loan applications: offences** S

- (1) A person who—
  - (a) knowingly or recklessly makes a statement—
    - (i) in an application for a grant or loan, or
    - (ii) in response to a requirement made under section 74(4),
 which is false in a material particular, or
  - (b) fails, without reasonable excuse, to notify the local authority, as soon as reasonably practicable, of any change of circumstances which—
    - (i) occurs prior to notification of the authority's decision on an application for a grant or loan being given to that person, and

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

- (ii) that person could reasonably be expected to regard as material to the application,  
is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Commencement Information**

**I22** S. 89 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**90 Work to improve energy efficiency and safety** **S**

- (1) Where—
    - (a) an application for a grant or loan has been made in respect of work in any premises, and
    - (b) the local authority considers that those premises will, on completion of that work—
      - (i) where the premises are a house, meet the tolerable standard, and
      - (ii) in any case, be in a reasonable state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the premises,
- the local authority may invite an application (or, as the case may be, a further application) for a grant or subsidised loan in respect of any work in those premises of the type specified in subsection (2).
- (2) The work in respect of which such an invitation may be made is—
    - (a) in the case of a house—
      - (i) replacement of unsafe electrical wiring,
      - (ii) installation of mains-powered smoke detectors,
      - (iii) provision of adequate thermal insulation, and
    - (b) in the case of any premises any part of which is owned in common, installation of—
      - (i) a fire-resistant door at the entry to each place forming part of those premises which is, or which is capable of being, occupied separately,
      - (ii) a main door entry-phone system.

**Commencement Information**

**I23** S. 90 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**91 Local authority payments to not for profit lenders** **S**

- (1) A local authority may make payments to a designated lender for the purposes of enabling or assisting the lender to lend sums to individuals to assist them with—
  - (a) the acquisition or sale (or the proposed acquisition or sale) of a house, or
  - (b) work on any land or any premises for any of the purposes mentioned in section 71(2).

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

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- (2) A designated lender is an organisation which—
  - (a) carries on a business providing such assistance, and
  - (b) does not carry on that business for profit.
- (3) Payments made under subsection (1) may be subject to such terms as the authority thinks fit.
- (4) Those terms may include—
  - (a) terms as to repayment,
  - (b) terms restricting the terms on which the designated lender lends sums to individuals.
- (5) The Scottish Ministers may, by regulations—
  - (a) amend the definition of “designated lender” in subsection (2),
  - (b) make provision as to the terms which may be imposed under subsection (3) (including provision restricting or requiring the imposition of a term).

**Commencement Information**

**I24** [S. 91](#) in force at 1.4.2009 by [S.S.I. 2009/122](#), [art. 3](#)

*Special cases*

**92 Tenants** S

A tenant is not eligible for a grant or loan unless the work to which the grant or loan relates—

- (a) has, for the period of 2 years preceding the tenant's application, been the tenant's responsibility under the tenancy,
- (b) is for either of the purposes set out in paragraphs (e) and (f) of section 71(2), or
- (c) is required as a matter of urgency for the health, safety or security of the occupants of a house, including, in particular, work to—
  - (i) repair a house,
  - (ii) provide means of escape from fire or other fire precautions.

**Commencement Information**

**I25** [S. 92](#) in force at 1.4.2009 by [S.S.I. 2009/122](#), [art. 3](#)

**93 Application to agricultural tenants etc.** S

- (1) For the purposes of this Part, where the condition in subsection (2) is satisfied, a tenant, crofter, landholder or statutory small tenant is deemed to be the owner of any land or premises on the person's farm, croft or holding.
- (2) That condition is that, on the termination of the tenancy, the person would be entitled to compensation for the work to which the grant or loan relates under the Agricultural Holdings (Scotland) Act 1991 (c. 55), the Agricultural Holdings (Scotland) Act 2003



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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

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- (asp 11), the Crofters (Scotland) Act 1993 (c. 44) or the Small Landholders (Scotland) Acts 1886 to 1931 as for an improvement.
- (3) Where by virtue of subsection (1) a grant or subsidised loan is made to a crofter, a landholder or a statutory small tenant in respect of work in relation to land or premises on the person's farm, croft or holding, the local authority must intimate to the landlord of the croft or holding that the grant or loan has been made, and the amount.
- (4) Subsection (5) applies where—
- (a) compensation becomes payable as for an improvement under the Crofters (Scotland) Act 1993 (c. 44) or the Small Landholders (Scotland) Acts 1886 to 1931 in respect of a house, or for work carried out in relation to a house, provided on a farm, croft or holding, and
  - (b) under section 83, conditions must at that time be observed with respect to the house otherwise than by its landlord.
- (5) The amount specified in subsection (6) is to be deducted from the amount of compensation which would be payable but for this subsection.
- (6) That amount is—
- (a) where a grant was made in relation to the house, so much of the value of the house or work as is attributable to the grant, or
  - (b) where a subsidised loan was made in relation to the house, so much of the value of the house or work as is attributable to the interest free element of that loan.
- (7) The landlord of a farm, croft or holding on which there is land or premises with respect to which conditions under section 83 must for the time being be complied with is not entitled to receive any sum by way of rent or otherwise in respect of so much of the value of the house or work as is attributable to the grant or subsidised loan.

**Commencement Information**

**I26** S. 93 in force at 1.4.2009 by S.I. 2009/122, art. 3

*Supplementary*

**94**      **Directions and guidance** **S**

- (1) The Scottish Ministers may give directions to local authorities in relation to the provision of assistance under this Part.
- (2) Directions under subsection (1) may, in particular, with a view to preventing the duplication of the making of grants or loans in respect of the same work, make provision as to the circumstances in which local authorities—
- (a) may or may not exercise their powers, or
  - (b) are or are not to perform their duties,
- under this Part.
- (3) A direction under subsection (1) may be—
- (a) given to a particular authority or to authorities generally,
  - (b) varied or revoked.

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

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- (4) A direction under subsection (1) may not relate to the provision of assistance to a particular person or in relation to particular premises.
- (5) In exercising its functions under this Part, a local authority must have regard to any guidance issued by the Scottish Ministers.
- (6) Before issuing any such guidance the Scottish Ministers must consult—
  - (a) such bodies representing local authorities, and
  - (b) such other persons,
 as they think fit.
- (7) The Scottish Ministers may vary or revoke any such guidance.

**Commencement Information**

**I27** S. 94 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**95 Local authority powers for improvement of amenity of an area S**

- (1) For the purpose of improving the amenity of a predominantly residential locality in its area, a local authority may—
  - (a) carry out any work on any land or in any premises owned by it,
  - (b) assist (whether by grants or loans or otherwise) in the carrying out of work on any land or in any premises not owned by it,
  - (c) with the agreement of the owner of any land or premises carry out or arrange for the carrying out of work on that land or in those premises at the expense of the owner, of the authority or of both,
  - (d) acquire any land or premises—
    - (i) by agreement, or
    - (ii) with the authorisation of the Scottish Ministers, compulsorily.
- (2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) applies in relation to an acquisition under subsection (1)(d)(ii) as if that provision were contained in an Act of Parliament in force immediately before the commencement of that Act (with references in that Act to land being read, in the case of an acquisition of premises, as references to those premises).
- (3) Assistance may be provided under subsection (1)(b) on such terms as the local authority thinks fit.
- (4) This section does not apply in relation to—
  - (a) any house, or
  - (b) any part of any premises which is a building which is, or which is capable of being, occupied.

**Commencement Information**

**I28** S. 95 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2. (See end of Document for details)*

## 96 Application of this Part to the Scottish Ministers **S**

Any power of a local authority to make grants or loans (including the powers to make payments under section 91(1) and to provide assistance under section 95(1)(b)), and any function of a local authority in relation to the making of grants or loans, under this Part is exercisable by the Scottish Ministers as it is by the local authority.

### Commencement Information

**I29** S. 96 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

## 97 Interpretation of Part 2 **S**

(1) In this Part—

- “applicant's contribution” means an amount assessed under section 77,
- “approved expense” has the meaning given in section 76,
- “interest free element” means an amount determined under section 79(4),
- “minimum percentage grant” and “minimum percentage loan” have the meanings given in section 79(7),
- “repayment element” means an amount determined under section 79(5),
- “standard loan” means a loan made under this Part which is not a subsidised loan,
- “subsidised loan” means a loan made under this Part which is divided into two elements in accordance with section 79(3).

(2) In this Part—

- (a) references to grants or loans (excluding the reference in section 95(1)(b)) are to grants or loans provided under section 71(1), and
- (b) references to the applicant for a grant or loan are to be read, in relation to any time after an applicant dies, as references to the applicant's executor.

### Commencement Information

**I30** S. 97 in force at 1.4.2009 by S.S.I. 2009/122, art. 3

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Part 2.