



# Housing Act 1985

## 1985 CHAPTER 68

### PART XIV

#### LOANS FOR ACQUISITION OR IMPROVEMENT OF HOUSING

##### *Local authority mortgages*

#### **435 Power of local authorities to advance money.**

- (1) A local authority may advance money to a person for the purpose of—
  - (a) acquiring a house,
  - (b) constructing a house,
  - (c) converting another building into a house or acquiring another building and converting it into a house, or
  - (d) altering, enlarging, repairing or improving a house,or for the purpose of facilitating the repayment of an amount outstanding on a previous loan made for any of those purposes.
- (2) The authority may make an advance notwithstanding that it is intended that some part of the premises will be used, or continue to be used, otherwise than as a dwelling if it appears to the authority that the principal effect of making the advance would be to meet the applicant's housing needs; and in such a case the premises shall be treated as a building to be converted into a house.
- (3) The authority may make advances whether or not the houses or buildings are in the authority's area.
- (4) An advance may be made in addition to assistance given by the authority in respect of the same house under any other Act or any other provision of this Act.

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#### **436 Terms of advance.**

- (1) The provisions of this section have effect with respect to the terms of advances under section 435.
- (2) The advance, together with the interest on it, shall be secured by a mortgage of the land concerned; and an advance shall not be made unless the estate proposed to be mortgaged is either—
  - (a) an estate in fee simple absolute in possession, or
  - (b) an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the advance remains unexpired on the date on which the mortgage is executed.
- (3) The amount of the principal of the advance shall not exceed the value of the mortgage security or, as the case may be the value which it is estimated the mortgaged security will bear when the construction, conversion, alteration, enlargement, repair or improvement has been carried out; and the advance shall not be made except after a valuation duly made on behalf of the authority.
- (4) Where the advance is for any of the purposes specified in section 435(1)(b) to (d) (construction, conversion, alteration, enlargement, repair or improvement) it may be made by instalments from time to time as the works progress.
- (5) The mortgage deed shall provide—
  - (a) for repayments of the principal either by instalments of equal or unequal amounts, beginning on the date of the advance or at a later date, or at the end of a fixed period (with or without a provision allowing the authority to extend the period) or on the happening of a specified event before the end of that period, and
  - (b) for the payment of instalments of interest throughout the period beginning on the date of the advance and ending when the whole of the principal is repaid; but subject to section 441 (waiver or reduction of payments in case of property requiring repair or improvement) and to section 446(1)(b) (assistance for first time buyers: part of loan interest-free for up to five years).
- (6) The mortgage deed shall also provide that, notwithstanding the provisions referred to in subsection (5), the balance for the time being unpaid—
  - (a) shall become repayable on demand by the authority in the event of any of the conditions subject to which the advance is made not being complied with, and
  - (b) may, in any event, be repaid on one of the usual quarter-days by the person for the time being entitled to the equity of redemption after one month's written notice of intention to repay has been given to the authority.

#### **437 Power of local authority on disposal to leave amount outstanding on mortgage.**

On the disposal of a house under section 32 (disposal by local authority of land held for purposes of Part II)—

- (a) by way of sale, or
- (b) by the grant or assignment of a lease at a premium

the local authority may agree to the price or premium, or part of it, and any expenses incurred by the purchaser, being secured by a mortgage of the premises.

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#### **438 Local authority mortgage interest rates.**

- (1) Where after 3rd October 1980 a local authority—
  - (a) advance money for any of the purposes mentioned in section 435, or
  - (b) on the disposal of a house allow, or have to allow, a sum to be left outstanding on the security of the house, or
  - (c) take a transfer of a mortgage in pursuance of section 442 (agreement by local authority to indemnify mortgagee),the provision made by them with respect to interest on the sum advanced or remaining outstanding shall comply with the provisions of Schedule 16.
- (2) This section does not prevent a local authority from giving assistance in the manner provided by—
  - section 441 (waiver or reduction of payments in case of property requiring repair or improvement), or
  - section 446(1)(b) (assistance for first-time buyers: part of loan interest-free for up to five years).
- (3) This section does not apply to loans made by local authorities under—
  - section 228 (duty to make loans for improvements required by improvement notice), or
  - section 58(2) of the <sup>M1</sup>Housing Associations Act 1985 (financial assistance for housing associations).

##### **Modifications etc. (not altering text)**

**C1** S. 438 excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\), s. 24\(4\)](#)

##### **Marginal Citations**

**M1** 1985 c. 68.

#### **439 Requirements as to fitness of premises, &c.**

- (1) Before advancing money under section 435 for the purpose specified in subsection (1)
  - (a) (acquisition of a house), the authority shall satisfy themselves that the house to be acquired is, or will be made, in all respects fit for human habitation.
- (2) Before advancing money for any of the purposes specified in subsection (1)(b) to (d) of that section (construction, conversion, alteration, enlargement, repair or improvement), the authority shall satisfy themselves that the house concerned will when the relevant works have been completed be in all respects fit for human habitation.
- (3) An advance shall not be made for the purpose specified in the closing words of section 435(1) (repayment of previous loan), unless the authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either—
  - (a) to retain an interest in the house concerned, or
  - (b) to carry out such works in relation to the building or house concerned as would be eligible for an advance under paragraph (c) or (d) of that subsection (conversion, alteration, enlargement, repair or improvement).

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**440 Deposits in respect of maintenance or repair of mortgaged premises.**

A local authority by whom has been advanced on the mortgage of a house in pursuance of any enactment may accept the deposit by the mortgagor of the sums estimated to be required for the maintenance or repair of the mortgaged premises, and may pay interest on sums so deposited.

**441 Waiver or reduction of payments in case of property requiring repair or improvement.**

- (1) Where a local authority—
  - (a) advance money for the acquisition of a house which is in need of repair or improvement, or
  - (b) on the disposal of a house which is in need of repair or improvement allow, or have to allow, a sum to be left outstanding on the security of the house,
 they may, if the conditions stated in subsection (2) are satisfied, give assistance in accordance with this section to the person acquiring the house.
- (2) The conditions are—
  - (a) that the assistance is given in accordance with a scheme which either has been approved by the Secretary of State or conforms with such requirements as may be prescribed, and
  - (b) that the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, such works of repair or improvement as are so specified.
- (3) The assistance shall take the form of making provision—
  - (a) for waiving or reducing the interest payable on the sum advanced or remaining outstanding, and
  - (b) for dispensing with the repayment of principal,
 for a period ending not later than five years after the date of the advance or, as the case may be, the date of the disposal.
- (4) In this section “prescribed” means prescribed by order of the Secretary of State made with the consent of the Treasury.
- (5) An order—
  - (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Local authority assistance in connection with mortgages*

**442 Agreement by local authority to indemnify mortgagee.**

- (1) [<sup>F1</sup>A local authority may enter into an agreement with a person or body making an advance on the security of a house (or a building to be converted into a house)] whereby, in the event of default by the mortgagor, and in the circumstances and subject to conditions specified in the agreement, the authority binds itself to indemnify the [<sup>F2</sup>mortgagee] in respect of the whole or part of the mortgagor’s outstanding

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indebtedness and any loss or expense falling on the [<sup>F2</sup>mortgagee] in consequence of the mortgagor's default.

[<sup>F3</sup>(1A) The local authority may only enter into the agreement if the advance is for one or more of the purposes specified in subsection (1) of section 435; and subsections (2) to (4) of that section apply in relation to power to enter into such an agreement as they apply to the power to make an advance under that section.]

(2) The agreement may also, if the mortgagor is made party to it, enable or require the authority in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the [<sup>F4</sup>mortgagee] being then discharged in respect of them.

(3) The transfer may be made to take effect—

- (a) on terms provided for by the agreement (including terms involving the substitution of a new mortgage agreement or modification of the existing one), and
- (b) so that the authority is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceding acts, omissions and events.

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

#### Textual Amendments

**F1** Words in s. 442(1) substituted (24.9.1996) for s. 442(1)(a)(b) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 27(2)(a)**

**F2** Words in s. 442(1) substituted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 27(2)(b)**

**F3** S. 442(1A) inserted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 27(3)**

**F4** Words in s. 442(2) substituted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 27(4)**

**F5** S. 442(4)(5) repealed (24.9.1996) by 1996 c. 52, ss. 222, 227, 232(2), Sch. 18 Pt. IV para. 27(5), **Sch. 19 Pt. XIV**

#### Modifications etc. (not altering text)

**C2** S. 442 amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 paras. 22** and 23 as substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 61** S. 442 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 21(d)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

### 443 Local authority contributions to mortgage costs.

(1) A local authority may contribute towards costs incurred by a person in connection with a legal charge which secures, or a proposed legal charge which is intended to secure, a relevant advance made or proposed to be made to him by [<sup>F6</sup>any person or body]

<sup>F7</sup>(2) .....

<sup>F7</sup>(3) .....

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#### Textual Amendments

- F6** Words in s. 443(1) substituted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 Pt. IV para. 28(a)**  
**F7** S. 443(2)(3) repealed (24.9.1996) by 1996 c. 52, ss. 222, 227, 232(2), **Sch. 18 Pt. IV para. 28(b)**, **Sch. 19 Pt. XIV**

#### Modifications etc. (not altering text)

- C3** S. 443 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 21(d)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)

### [<sup>F8</sup> 444 **Relevant advances for the purposes of section 443.**

The expression “relevant advance” in section 443 (contributions to mortgage costs) means an advance made to a person whose interest in the house (or building to be converted into a house) on the security of which the advance is made is, or was, acquired by virtue of a conveyance of the freehold, or a grant or assignment of a long lease, by a housing authority.]

#### Textual Amendments

- F8** S. 444 substituted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 para. IV para. 29**

#### *Assistance for first-time buyers*

### **445 Advances to recognised lending institutions to assist first-time buyers.**

- (1) The Secretary of State may make advances to recognised lending institutions enabling them to provide assistance to first-time purchasers of house property in Great Britain where—
- (a) the purchaser intends to make his home in the property,
  - (b) finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution, and
  - (c) the purchase price is within the prescribed limits.
- (2) In this section “prescribed” means prescribed by order of the Secretary of State.
- (3) An order—
- (a) may prescribe different limits for properties in different areas, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### Modifications etc. (not altering text)

- C4** Ss. 445–450: power to amend or repeal conferred by **Local Government and Housing Act 1989 (c. 42, SIF 61), s. 171(1)(a)(2)**

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#### **446 Forms of assistance and qualifying conditions.**

- (1) Assistance under section 445 (assistance for first-time buyers) may be given in the following ways—
  - (a) the secured loan may be financed by the Secretary of State to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan exceeds the loan value of the property);
  - (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to five years from the date of purchase; and
  - (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt) up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.
- (2) The purchaser qualifies for assistance under subsection (1)(a) and (b) (interest-free loan) by satisfying the following conditions with respect to his own savings—
  - (a) that he has been saving with a recognised savings institution for at least two years preceding the date of his application for assistance,
  - (b) that throughout the twelve months preceding that date he had at least £300 of such savings, and
  - (c) that by that date he has accumulated at least £600 of such savings;and he qualifies for assistance under subsection (1)(c) (bonus on savings) by satisfying the conditions specified in paragraphs (a) and (b) above.
- (3) The Secretary of State may allow for the conditions to be relaxed or modified in particular classes of case.
- (4) No assistance shall be given in any case unless the amount of the secured loan is at least £1,600 and amounts to not less than 25 per cent. of the purchase price of the property.
- (5) The Secretary of State may by order made with the consent of the Treasury—
  - (a) alter any of the money sums specified in this section;
  - (b) substitute a longer or shorter period for either or both of the periods mentioned in subsection (2)(a) and (b) (conditions as to savings);
  - (c) alter the condition in subsection (2)(c) so as to enable the purchaser to satisfy it with lesser amounts of savings and to enable assistance to be given in such a case according to reduced scales specified in the order;
  - (d) alter the percentage mentioned in subsection (4) (minimum secured loan).
- (6) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

#### **Modifications etc. (not altering text)**

- C5** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 171\(1\)\(a\)\(2\)](#)
- C6** S. 446(3) amended by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 171\(3\)\(a\)](#)

#### **447 Recognised lending institutions.**

- (1) The lending institutions recognised for the purposes of section 445 (assistance for first-time buyers) are—

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[<sup>F9</sup>building societies,]  
 local authorities,  
 new town corporations,  
 the Development Board for Rural Wales,  
 trustee savings banks  
 banks,  
 insurance companies, and  
 friendly societies.  
 [<sup>F10</sup>Swansea Building Society]  
 [<sup>F11</sup>Abbey Life Home Service Limited.  
 Abbey Life Mortgage Securities Limited.  
 Abbey Life Residential Loans Limited.  
 General Portfolio Finance Limited.  
 Royal London Homebuy Limited.]  
 [<sup>F12</sup>Abbey Life Mortgage Finance Limited,  
 Abbey Life Mortgage Loans Limited,  
 CIS Mortgage Maker Limited]  
 [<sup>F13</sup>Mortgage Express Ltd.]  
 [<sup>F14</sup>Halifax Loans Limited  
 BNP Mortgages Limited.]  
 [<sup>F15</sup>Sun Life of Canada Home Loans Limited  
 Halifax Loans (No.2) Limited  
 Halifax Loans (No.3) Limited  
 Halifax Loans (No.4) Limited.]

- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised lending institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

#### Textual Amendments

- F9** Words substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(1), **Sch. 18 Pt. I para. 18(3)**
- F10** Entry added by [S.I. 1986/1489](#), **art. 2**
- F11** Entries added by [S.I. 1988/84](#), **art. 2**, **Sch.**
- F12** Entries added by [S.I. 1988/1723](#), **art. 2**
- F13** Entry added by [S.I. 1989/956](#), **art. 2**
- F14** Entries added by [S.I. 1989/2328](#), **art. 2**
- F15** Entries added by [S.I. 1990/1387](#), **art. 2**

#### Modifications etc. (not altering text)

- C7** [Ss. 445–450](#): power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), **s. 171(1)(a)(2)**
- C8** [S. 447](#) amended by [S.I. 1986/148](#), **art. 10(6)**



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- C9** By S.I. 1987/1202, art. 2, Sch. the bodies “Yorkshire Bank Home Loans Limited” and “Abbey Life Home Loans Limited.” are specified for the purposes of section 447(2)
- C10** By S.I. 1987/1809, art. 2, Sch. the bodies “Abbey Life Executive Mortgages Limited.” and “Abbey Life Funding Limited.” are specified for the purposes of section 447(2)

#### 448 Recognised savings institutions.

- (1) The savings institutions recognised for the purposes of section 446 (qualifying conditions as to savings) are—
- [<sup>F16</sup>building societies]
  - local authorities
  - trustee savings banks,
  - banks,
  - friendly societies,
  - the Director of Savings, and
  - the Post Office,
  - [<sup>F17</sup>Swansea Building Society]
- and savings institutions recognised for the purposes of the corresponding provisions in force in Scotland or Northern Ireland.
- (2) The Secretary of State may by order made with the consent of the Treasury—
- (a) add to the list in subsection (1), or
  - (b) direct that a named body shall no longer be a recognised savings institution; but before making an order under paragraph (b) he shall give an opportunity for representations to be made on behalf of the body concerned.
- (3) An order shall be made by statutory instrument.

#### Textual Amendments

**F16** Words substituted by Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a)(5), 120(1), Sch. 18 Pt. I para. 18(3)

**F17** Entry added by S.I. 1986/1490, art. 2

#### Modifications etc. (not altering text)

**C11** Ss. 445–450: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 171(1)(a)(2)

#### 449 Terms of advances and administration.

- (1) Advances to lending institutions under section 445 (assistance for first-time buyers) shall be on such terms as to repayment and otherwise as may be settled by the Secretary of State, with the consent of the Treasury, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Secretary of State.
- (2) The following matters, among others, may be dealt with in directions issued by the Secretary of State—
- (a) the cases in which assistance is to be provided;

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- (b) the method of determining the loan value of property for the purpose of section 446(1)(a) (limit on total loan);
  - (c) the method of quantifying bonus by reference to savings;
  - (d) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;
  - (e) the steps which must be taken with a view to satisfying the conditions in section 446(2) (conditions as to purchaser's own savings), and the circumstances in which those conditions are or are not to be treated as satisfied;
  - (f) the supporting evidence and declarations which must be furnished by a person applying for assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations;
  - (g) the way in which amounts paid over by way of assistance are to be repaid to the lending institutions and to the Secretary of State.
- (3) The Secretary of State may, to the extent that he thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given.

**Modifications etc. (not altering text)**

**C12** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

**[<sup>F18</sup>450 Modifications of building society law.**

So much of an advance by a building society which is partly financed under section 445 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions as is so financed shall be treated as not forming part of the advance for the purpose of determining—

- (a) whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society, and
- (b) the classification of the advance, or any such further advance, for the purposes of Part III of the Building Societies Act 1986.]

**Textual Amendments**

**F18** S. 450 substituted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), [ss. 54\(3\)\(a\)\(5\)](#), 120(1), Sch. 18 Pt. 1 para. 18(4)

**Modifications etc. (not altering text)**

**C13** Ss. 445–450: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), [s. 171\(1\)\(a\)\(2\)](#)

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*[<sup>F19</sup> Loans in respect of service charges]*

**Textual Amendments**

**F19** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), [s. 5](#); S.I. 1992/1753, [art. 2\(1\)](#)

**450A** <sup>F20</sup>**Right to a loan in certain cases after exercise of right to buy.**

- (1) The Secretary of State may by regulations provide that where—
  - (a) a lease of a flat has been granted in pursuance of Part V (the right to buy), and
  - (b) the landlord is the housing authority who granted the lease or another housing authority,the tenant has, in such circumstances as may be prescribed, a right to a loan in respect of service charges to which this section applies.
- (2) This section applies to service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land) which are payable in the period beginning with the grant of the lease and ending with the tenth anniversary of the grant or, where the lease provides for service charges to be payable by reference to a specified annual period, with the end of the tenth such period beginning after the grant of the lease.
- (3) The regulations may provide that the right—
  - (a) arises only in respect of so much of a service charge as exceeds a minimum qualifying amount and does not exceed a maximum qualifying amount, and
  - (b) does not arise unless the amount thus qualifying for a loan itself exceeds a minimum amount,the amounts being either prescribed or ascertained in a prescribed manner.
- (4) The regulations shall provide that the right is—
  - (a) where the landlord is a housing association, a right to an advance from the [<sup>F21</sup>Corporation], and
  - (b) in any other case, a right to leave the whole or part of the service charge outstanding.
- (5) The regulations may, as regards the procedure for exercising the right, provide—
  - (a) that a demand for service charges in respect of repairs shall inform the tenant whether, in the landlord’s opinion, he is entitled to a loan and, if he is, what he must do to claim it;
  - (b) that the right must be claimed within a prescribed period of the demand; and
  - (c) that on the right being claimed the lender shall inform the tenant of the terms of the loan and of the prescribed period within which the tenant may accept the offer.
- (6) In this section—

“housing authority” includes any [<sup>F22</sup>registered housing association other than a co-operative housing association and any unregistered housing association which is a co-operative housing association; and]

“repairs” includes works for making good a structural defect.

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#### Textual Amendments

- F20** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 5; S.I. 1992/1753, [art.2\(1\)](#)
- F21** Word substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. II para. 106](#)
- F22** Words substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. I para. 56](#)

#### [<sup>F23</sup> 450B Power to make loans in other cases.

- (1) The Secretary of State may by regulations provide that where—
  - (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority, and
  - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land),
 the landlord or, where the landlord is a housing association, the [<sup>F24</sup>Corporation] may, in such circumstances as may be prescribed, make a loan to the tenant in respect of the service charges.
- (2) The regulations shall provide that the power is—
  - (a) where the landlord is a housing association, a power of the [<sup>F24</sup>Corporation] to make an advance, and
  - (b) in any other case, a power of the landlord to leave the whole or part of the service charge outstanding.
- (3) Where the tenant is entitled to a loan in pursuance of regulations under section 450A, the power conferred by regulations under this section may be exercised in respect of any part of the service charge which does not qualify for a loan under that section.
- (4) In this section—
 

“housing authority” includes any [<sup>F25</sup>registered housing association other than a co-operative housing association and any unregistered housing association which is a co-operative housing association; and]

“repairs” includes works for making good a structural defect.
- (5) This section does not affect any other power of the landlord, or the [<sup>F24</sup>Corporation], to make loans.]

#### Textual Amendments

- F23** Ss. 450A, 450B, 450C and cross heading inserted (13.07.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 5; S.I. 1992/1753, [art.2\(1\)](#)
- F24** Word substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. II para. 106](#)
- F25** Words substituted by [Housing Act 1988](#) (c. 50, SIF 61), s. 140(1), [Sch. 17 Pt. I para. 57](#)

#### [<sup>F26</sup> 450C Supplementary provisions as to regulations under s. 450A or 450B.

- (1) This section applies to regulations under section 450A or 450B (regulations conferring right to loan, or power to make loan, in respect of service charges).

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- (2) The regulations may provide that the right or, as the case may be, the power does not arise in the case of any prescribed description of landlord.
- (3) The regulations shall provide that the loan—
  - (a) in the case of a loan made in pursuance of regulations under section 450A (the right to a loan), shall be on such terms as may be prescribed, and
  - (b) in the case of a loan made by virtue of regulations under section 450B (power to make loan), shall be on such terms as the lender may determine subject to any provision made by the regulations;and shall, in either case, be secured by a mortgage of the flat in question, but may be made whether or not the flat is adequate security for the loan.
- (4) The regulations may—
  - (a) as regards the rate of interest payable on the loan, either prescribe the rate or provide that the rate shall be such reasonable rate as may be determined by the lender or, where the lender is a local authority, provide that Schedule 16 applies (local authority mortgage interest rates);
  - (b) as regards administrative expenses of the lender in connection with a loan, provide that the lender may charge such expenses to the borrower, to the extent that they do not exceed such amount as may be prescribed, and that the expenses so charged may, at the option of the borrower in the case of a loan under section 450A and at the option of the lender in the case of a loan under section 450B, be added to the amount of the loan.
- (5) The regulations may apply whenever the lease in question was granted or assigned and whenever the service charge in question became payable.
- (6) The regulations—
  - (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
  - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate; and
  - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F26** Ss. 450A, 450B, 450C and cross heading inserted (13.7.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 5; S.I. 1992/1753, art.2(1)

VALID FROM 01/12/2008

*[<sup>F27</sup>Other financial assistance in respect of service charges*

#### Textual Amendments

**F27** [S. 450D and crossheading](#) inserted (1.12.2008 for E. for specified purposes, 6.4.2009 for E. in so far as not already in force, 26.7.2011 for W. for specified purposes, 19.8.2011 for W. so far as not

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already in force) by Housing and Regeneration Act 2008 (c. 17), ss. 309, 325(1); S.I. 2008/3068, art. 4(9) (with arts. 6-13); S.I. 2009/803, art. 9; S.I. 2011/1863, arts. 2, 3(2)

#### **450D Purchase of equitable interests**

- (1) The appropriate national authority may by regulations provide that where—
- (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the housing authority or another housing authority, and
  - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs or improvements (whether to the flat, the building in which it is situated or any other building or land),
- the landlord may, with the agreement of the tenant and in such circumstances as may be prescribed, purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.
- (2) Regulations under this section shall ensure that the purchase price is to be met by the landlord reducing or (as the case may be) cancelling the service charge payable to the landlord by the tenant to such extent as corresponds to the amount concerned.
- (3) Regulations under this section may, in particular—
- (a) provide that the power to purchase an equitable interest does not arise in the case of particular descriptions of landlord;
  - (b) make provision about calculating the purchase price (including provision about any discounts and about imposing charges for the services of district valuers);
  - (c) provide for—
    - (i) the tenant to be liable for the administrative expenses of the landlord in connection with the purchase;
    - (ii) such expenses not to exceed such amount (if any) as may be specified in the regulations;
    - (iii) the purchase price to include, at the option of the purchaser, a deduction for such expenses;
  - (d) provide for an alteration, as a result of the purchase of the equitable interest, in the liability of the tenant for future service charges or improvement contributions.
- (4) Regulations under this section may not contain provision for cases where the Secretary of State or the Welsh Ministers are the landlord unless the Welsh Ministers are the landlord—
- (a) as the result of the exercise by them of functions under Part 3 of the Housing Associations Act 1985; or
  - (b) as the result of—
    - (i) the exercise by the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation of functions under Part 3 of the Act of 1985; and
    - (ii) the transfer of the flat to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the Government of Wales Act 2006.
- (5) For the purposes of this section a long lease granted or assigned by—
- (a) the Welsh Ministers, or

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- (b) in a case falling within subsection (4)(b), the former National Assembly for Wales, the Secretary of State, Housing for Wales or the Housing Corporation, shall be taken to have been granted or assigned by a housing authority if (but only if) the person concerned granted or assigned it in exercise of its powers under section 90 of the Housing Associations Act 1985.
- (6) This section does not affect any other power of the landlord to purchase an equitable interest in the flat for the purpose of assisting the tenant to meet some or all of the service charge payments.
- (7) Regulations under this section may apply whenever the lease concerned was granted or assigned and whenever the service charge concerned became payable.
- (8) Regulations under this section—
- (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases or descriptions of case including different provision for different areas;
  - (c) may contain such incidental, supplementary and transitional provisions as the appropriate national authority considers appropriate.
- (9) An instrument containing regulations made under this section—
- (a) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) In this section—
- “appropriate national authority” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;
  - “former National Assembly for Wales” means the Assembly constituted by the Government of Wales Act 1998;
  - “housing authority”—
    - (a) does not include a registered provider of social housing, or a registered social landlord, which is a co-operative housing association;
    - (b) includes a co-operative housing association which is neither a registered provider of social housing nor a registered social landlord;
  - “improvement contribution” has the same meaning as in Part 5 (see section 187);
  - “repairs” includes works for making good a structural defect.]

#### *Miscellaneous*

#### **451 Loans by Public Works Loan Commissioners.**

- (1) The Public Works Loan Commissioners may lend money for the purpose of constructing or improving houses, or facilitating or encouraging the construction or improvement of houses, to any person entitled to land for an estate in fee simple absolute in possession or for a term of years absolute of which not less than 50 years remains unexpired.

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- (2) A loan for any of those purposes, and interest on the loan, shall be secured by a mortgage of—
- (a) the land in respect of which the purpose is to be carried out, and
  - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments from time to time as the building or other work on land mortgaged under subsection (2) progresses (so, however, that the total amounts lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) The period for repayment of the loan shall not exceed 40 years, and no money shall be lent on a mortgage of land or houses unless the estate proposed to be mortgaged is either a fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) This section does not apply to housing associations; but corresponding provision is made by section 67 of the <sup>M2</sup>Housing Associations Act 1985.

#### Marginal Citations

M2 1985 c. 69.

#### 452 Vesting of house in authority entitled to exercise power of sale.

- (1) Where there has been a disposal of a house by a housing authority and—
- (a) the authority is a mortgagee of the house,
  - (b) the conveyance or grant contains a pre-emption provision in favour of the authority, and
  - (c) within the period during which the pre-emption provision has effect the authority becomes entitled as mortgagee to exercise the power of sale conferred by section 101 of the <sup>M3</sup>Law of Property Act 1925 or the mortgage deed.

the provisions of Schedule 17 apply with respect to the vesting of the house in the authority.

- (2) In subsection (1)—

“disposal” means a conveyance of the freehold or a grant or assignment of a long lease;

<sup>F28</sup> . . .

“pre-emption provision” means a covenant imposing a condition of the kind mentioned in section 33(2)(b) or (c) (right of pre-emption or prohibition of assignment), the limitation specified in section 157(4) (restriction on disposal of dwellings in National Parks, etc.), or any other provision to the like effect.



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- (3) The vesting of a house under Schedule 17 shall be treated as a relevant disposal for the purposes of—
- (a) the provisions of Parts II and V relating to the covenant required by section 35 or 155 (repayment of discount on early disposal), and
  - (b) any provision of the conveyance or grant to the like effect as the covenant required by those sections.
- (4) Where a conveyance or grant executed before 26th August 1984 contains both—
- (a) a pre-emption provision within the meaning of subsection (1), and
  - (b) the covenant required by section 35 or 155 (repayment of discount on early disposal) or any other provision to the like effect.
- the latter covenant or provision has effect as from that date with such modifications as may be necessary to bring it into conformity with the provisions of this section.
- (5) The preceding provisions of this section do not apply where the conveyance or grant was executed before 8th August 1980.
- (6) Where before 8th August 1980 a local authority sold property under the powers of section 104(1) of the <sup>M4</sup>Housing Act 1957 (disposal of houses provided under Part V of that Act) and—
- (a) part of the price was secured by a mortgage of the property,
  - (b) such a condition was imposed on the sale as was mentioned in section 104(3) (c) of that Act, and
  - (c) within the period during which the authority has the right to re-acquire the property they become entitled to exercise the power of sale conferred by section 101 of the <sup>M5</sup>Law of Property Act 1925 or by the mortgage deed,
- the provisions of Schedule 17 apply with respect to the vesting of the property in the authority, but subject to the modifications specified in paragraph 4 of that Schedule.

#### Textual Amendments

**F28** Definition of 'housing authority' in s. 452(2) repealed (17.8.1992) by [Housing and Planning Act 1986](#) (c. 63, SIF 61), s. 24(2)(3), Sch. 5 Pt. II para. 35, **Sch. 12 Pt. I**; S.I. 1992/1753, **art.2(2)** (relating to Sch. 5 para. 35 by virtue of which the definition is omitted) (with restriction in Sch. para. 4)

#### Modifications etc. (not altering text)

**C14** S. 452 extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 22** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

#### Marginal Citations

**M3** 1925 c. 20.

**M4** 1957 c. 56.

**M5** 1925 c. 20.

### 453 Further advances in case of disposal on shared ownership lease.

- (1) Where—
- (a) a lease of a house, granted otherwise than in pursuance of the provisions of part V (the right to buy) relating to shared ownership leases, contains a

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provision to the like effect as that required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right of tenant to acquire additional shares), and

- (b) a housing authority has, in the exercise of any of its powers, left outstanding or advanced any amount on the security of the house.

that power includes power to advance further amounts for the purpose of assisting the tenant to make payments in pursuance of that provision.

<sup>F29</sup>(2) .....

#### Textual Amendments

**F29** S. 453(2) repealed (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2)(3), Sch. 5 Pt. II para. 36, [Sch. 12 Pt. I](#); [S.I. 1992/1753, art.2\(2\)](#) (relating to Sch. 5 para. 36 by virtue of which s. 453(2) is omitted) (with restriction in Sch. para. 4)

#### Modifications etc. (not altering text)

**C15** S. 453 extended (5.7.1994) by [1994 c. 19, s. 39, Sch. 13 para. 22](#) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

#### 454 Exclusion of Restrictive Trade Practices Act: recommendations as to implementation of this Part.

Section 16(3) and (5) of the <sup>M6</sup>Restrictive Trade Practices Act 1976 (recommendations by services supply associations to members) do not apply to—

- (a) recommendations made to building societies or recognised bodies about the making of agreements under section 442 (local authority agreements to indemnify mortgagees) or the corresponding Northern Ireland provision, or
- (b) recommendations made to lending institutions and savings institutions about the manner of implementing sections 445 to 449 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions.

Provided that the recommendations are made with the approval of the Secretary of State, or, as the case may be, the Department of the Environment for Northern Ireland, which may be withdrawn at any time on one month's notice.

#### Marginal Citations

**M6** 1976 c. 34.

#### 455 Exclusion of Restrictive Trade Practices Act: agreements as to loans on security of new houses.

- (1) In determining for the purposes of the Restrictive Trade Practices Act 1976 whether an agreement between building societies is one to which that Act applies by virtue of an order made, or having effect as if made, under section 11 of that Act (restrictive agreements as to services), no account shall be taken of any term (whether or not subject to exceptions) by which the parties or any of them agree not to grant loans on the security of new houses unless they have been built by or at the direction of a person who is registered with, or has agreed to comply with the standards of house building laid down or approved by, an appropriate body.

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(2) In subsection (1)—

“appropriate body” means a body concerned with the specification and control of standards of house building which—

- (a) has its chairman, or the chairman of its board of directors or other governing body, appointed by the Secretary of State, and
- (b) promotes or administers a scheme conferring rights in respect of defects in the condition of houses on persons having or acquiring interest in them; and

“new house” means a building or part of a building intended for use as a private dwelling and not previously occupied as such.

(3) The reference in subsection (1) to a term agreed to by the parties or any of them includes a term to which the parties or any of them are deemed to have agreed by virtue of section 16 of the <sup>M7</sup>Restrictive Trade Practices Act 1976 (recommendations of services supply associations).

**Marginal Citations**

M7 1976 c. 34.

**456 Advances under the Small Dwellings Acquisition Acts.**

The provisions of Schedule 18 have effect with respect to advances made under the Small Dwellings Acquisition Acts 1899 to 1923 before the repeal of those Acts by the <sup>M8</sup>Housing (Consequential Provisions) Act 1985.

**Marginal Citations**

M8 1985 c. 71.

*Supplementary provisions*

**457 Meaning of “house” and “house property”.**

In this Part “house” includes—

- (a) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it, and
- (b) any part of a building which is occupied or intended to be occupied as a separate dwelling including, in particular, a flat;

and “house property” shall be construed accordingly.

**458 Minor definitions.**

In this Part—

“the corresponding Northern Ireland provisions” means—

- (a) in relation to section 442 (local authority agreements to indemnify mortgagees), Article 156 of the <sup>M9</sup>Housing (Northern Ireland) Order 1981;
- (b) in relation to sections 445 to 449 (assistance for first-time buyers), Part IX of that Order;

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“the corresponding Scottish provisions”, in relation to sections 445 to 449 (assistance for first-time buyers), means [<sup>F30</sup>sections 222 to 228 of the Housing (Scotland) Act 1987];

.....<sup>F31</sup>  
[<sup>F32</sup>“housing authority” includes any local authority, an urban development corporation, the [<sup>F33</sup>Corporation] and a registered housing association;]

“long lease” means a lease creating a long tenancy within the meaning of section 115.

#### Textual Amendments

- F30** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 30(3)**
- F31** Definition repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(2), **Sch. 19 Pt. I**
- F32** In s. 458, definition of 'housing authority' inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 37**; S.I. 1992/1753, **art.2(2)** (with restriction in Sch. para. 4)
- F33** Word substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 106**

#### Marginal Citations

- M9** [S.I. 1981/156 \(N.I. 3\)](#)

### 459 Index of defined expressions: Part XIV.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
[ <sup>F34</sup> co-operative housing association]	[ <sup>F34</sup> section 5(2)]
[ <sup>F35</sup> the Corporation]	[ <sup>F35</sup> section 6A]
corresponding Northern Ireland provisions	section 458
corresponding Scottish provisions	section 458
..... <sup>F36</sup>	..... <sup>F36</sup>
district valuer	section 622
first time purchaser	section 449(2)(d)
fit for human habitation	section 604
friendly society	section 622
house	section 457
house property	section 457

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housing association	section 5(1)
[ <sup>F37</sup> housing authority]	[ <sup>F37</sup> sections 4(a) and 458]
<sup>F38</sup>	...
...	<sup>F39</sup>
insurance company	section 622
local authority	section 4(e)
long lease	sections 115 and 458
new town corporation	section 4(b)
ownership and proprietor (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraphs 9(2) and (3) of Schedule 18
...	<sup>F38</sup>
...	...
recognised lending institution	section 447
recognised savings institution	section 448
registered housing association	section 5(4)
residence (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 9(1) of Schedule 18
[ <sup>F37</sup> service charge]	[ <sup>F37</sup> section 621(A)]
statutory conditions (in relation to an advance under the Small Dwellings Acquisition Acts)	paragraph 2 of Schedule 18
trustee savings bank	section 622
urban development corporation	section 4(d)

#### Textual Amendments

- F34** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 58**
- F35** Entry inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. II para. 112**
- F36** Entry repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), ss. 54(3)(a)(5), 120(2), **Sch. 19 Pt. I**
- F37** Entries in s. 459 inserted (17.8.1992) by [Housing and Planning Act 1986 \(c. 63, SIF 61\)](#), s. 24(2), **Sch. 5 Pt. II para. 38**; S.I. 1992/1753, **art. 2(2)** (with restriction in Sch. para. 4)
- F38** Entry in s. 459 repealed (24.9.1996) by 1996 c. 52, ss. 227, 232(2), **Sch. 19 Pt. XIV**
- F39** Entry repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(4), **Sch. 12 Pt. II Note 2**

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