Housing (Scotland) Act 1987

1987 CHAPTER 26

PART I

PROVISION OF HOUSING

Modifications etc. (not altering text)
C1 Pt. I (ss. 1-23) restricted (19.8.1996) by 1996 c. 49, **s. 9**; S.I. 1996/2127, art. 2, **Sch. Pt. I**

Duties and powers of local authorities

1 Duty of local authority to consider needs of their area for further housing accommodation.

(1) Every local authority shall consider the housing conditions in their area and the needs of the area for further housing accommodation.

(2) For that purpose they shall review any information which has been brought to their notice, including in particular information brought to their notice as a result of a survey or inspections made under section (3).

(3) If the Secretary of State gives them notice to do so, they shall, within 3 months after such notice, prepare and submit to him proposals for the provision of housing accommodation.

(4) In considering the needs of their area for further housing accommodation under subsection (1), every local authority shall have regard to the special needs of chronically sick or disabled persons; and any proposals prepared and submitted to the Secretary of State under subsection (3) shall distinguish any houses which they propose to provide which make special provision for the needs of such persons.

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Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2 Powers of local authority to provide housing accommodation.

(1) A local authority may provide housing accommodation—

(a) by the erection of houses on any land acquired or appropriated by them;

(b) by the conversion of any buildings into houses;

(c) by acquiring houses;

(d) by altering, enlarging, repairing or improving any houses or other buildings which have, or a right or interest in which has, been acquired by the local authority.

(2) For the purpose of supplying the needs for housing accommodation in its area, a local authority may exercise any of its powers under subsection (1) outside that area.

(3) A local authority may alter, enlarge, repair or improve any house provided by them under subsection (1).

(4) For the purposes of this Part the provision of housing accommodation includes the provision of—

(a) a cottage with a garden of not more than one acre;

(b) a hostel.

(5) In this section "hostel" means—

(a) in relation to a building provided or converted before 3 July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained dwellings) and board;

(b) in relation to a building provided or converted on or after 3 July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of food adequate to the needs of those persons or both.

[F1(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part.**]**

Textual Amendments

F1 S. 2(6) added by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 161(2)**

3 Power of local authority to provide shops, etc., in connection with housing accommodation.

(1) Subject to the provisions of this section, a local authority may provide and maintain—

(a) any building adapted for use as a shop;

(b) any recreation grounds;

(c) such other buildings or land as are referred to in subsection (2),

in connection with housing accommodation provided by them under this Part.

(2) The buildings or land referred to in subsection (1)(c) are buildings or land which in the opinion of the Secretary of State will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

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(3) The provision and maintenance of any building or land under this section—

(a) requires the consent of the Secretary of State;

(b) may be undertaken jointly with any other person.

(4) The Secretary of State may, in giving his consent to the provision of any building or land under this section, by order apply, with any necessary modifications, to that building or land any statutory provisions which would have been applicable to it if the building or land had been provided under any enactment giving any local authority powers for that purpose.

4 Power of local authority to provide furniture, etc.

(1) A local authority—

(a) may fit out, furnish and supply any house erected, converted or acquired by them under section 2 with all requisite furniture, fittings and conveniences;

(b) shall have power to sell, or to supply under a hire-purchase agreement, furniture to the occupants of houses provided by the local authority and, for that purpose, to buy furniture.

(2) In this section "hire-purchase agreement" means a hire-purchase or conditional sale agreement within the meaning of the [M1]Consumer Credit Act 1974.

Marginal Citations

M1 1974 c. 39.

5 Power of local authority to provide board and laundry facilities.

(1) The power of a local authority under this Part to provide housing accommodation shall include power to provide, in connection with the provision of such accommodation for any persons, such facilities for obtaining meals and such laundry facilities and services as accord with the needs of those persons.

(2) A local authority may make such reasonable charges for meals provided by them by virtue of this section, and such reasonable charges to persons availing themselves of laundry facilities or services so provided, as the authority may determine.

(3) This section shall not authorise the grant of a licence under the [M2]Licensing (Scotland) Act 1976 for the sale of alcoholic liquor in connection with the provision under this section of facilities for obtaining meals.

Marginal Citations

M2 1976 c. 66.

[F2 5A Power of local authority to provide welfare services.

(1) A local authority may provide in connection with housing accommodation provided by them (whether or not under this Part) such welfare services, that is to say services for promoting the welfare of the persons for whom the accommodation is so provided, as accord with the needs of those persons.

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(2) The local authority may make reasonable charges for welfare services provided by virtue of this section.

(3) Notwithstanding the provisions of section 203, a local authority may attribute the income from and the expenditure on the welfare services provided under subsection (1) to a revenue account other than their housing revenue account.

(4) In this section "welfare services" does not include the repair, maintenance, supervision or management of houses or other property.

(5) The powers conferred by this section shall not be regarded as restricting those conferred by section 83 of the Local Government (Scotland) Act 1973 (power to incur expenditure for purposes not otherwise authorised) and accordingly the reference in subsection (1) of that section to any other enactment shall not include a reference to this section.**]**

Textual Amendments

F2 S. 5A inserted (retrospectively) by 1993 c. 28, **ss. 149**, 188(2)(b).

[F3 5B Power to repeal provisions relating to welfare services.

(1) The Secretary of State may at any time by order made by statutory instrument provide that, on such day or in relation to such periods as may be appointed by the order, section 5A, this section and paragraph 4A of Schedule 15 shall—

(a) cease to have effect; or

(b) cease to apply for such purposes as may be specified in the order.

(2) An order under this section may—

(a) appoint different days or periods for different provisions or purposes or for different authorities or descriptions of authority; and

(b) contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.**]**

Textual Amendments

F3 S. 5B inserted (20.7.1993) by 1993 c. 28, **ss. 151**, 188(2)(b).

6 Duty of local authority to have regard to amenities of locality, etc.

(1) A local authority, in preparing any proposals for the provision of houses or in taking any action under this Act, shall have regard to artistic quality in the lay-out, planning and treatment of the houses to be provided, the beauty of the landscape or countryside and the other amenities of the locality, and the desirability of preserving existing works of architectural, historic or artistic interest.

(2) For their better advice in carrying out the requirements of subsection (1), a local authority may appoint a local advisory committee including representatives of architectural and other artistic interests.

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7 Execution of works by local authority in connection with housing operations outside their area.

Where any housing operations under this Part are being carried out by a local authority outside their own area, that authority shall have power to execute any works which are necessary for the purposes, or are incidental to the carrying out, of the operations, subject to entering into an agreement with the local authority of the area in which the operations are being carried out as to the terms and conditions on which any such works are to be executed.

8 Adjustment of differences between local authorities as to carrying out of proposals for provision of housing accommodation.

Where a local authority are providing houses in the area of another local authority, any difference arising between those authorities with respect to the carrying out of the proposals may be referred by either authority to the Secretary of State, and the Secretary of State's decision shall be final and binding on the authorities.

Acquisition and disposal of land

9 Power of local authority to acquire land for, or in connection with, provision of housing accommodation.

(1) A local authority may acquire—

(a) any land as a site for the erection of houses;

(b) land proposed to be used for any purpose authorised by section 3 or section 5;

(c) subject to subsection (2),

(i) houses, and

(ii) buildings other than houses, being buildings which may be made suitable as houses,

together with any lands occupied with the houses or buildings, or any right or interest in the houses or buildings;

(d) land for the purposes of—

(i) selling or leasing the land under the powers conferred by this Act, with a view to the erection on the land of houses by persons other than the local authority;

(ii) selling or leasing, under the powers conferred by this Act, any part of the land acquired, with a view to the use of that land for purposes which in the opinion of the local authority are necessary or desirable for, or incidental to, the development of the land as a building estate;

(iii) carrying out on the land works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house;

(iv) selling or leasing the land under the powers conferred by this Act, with a view to the carrying out on the land by a person other than the local authority of such works as are mentioned in sub-paragraph (iii).

(2) Nothing in subsection (1)(c) shall authorise a local authority to acquire otherwise than by agreement any house or other building which is situated on land used for agriculture, and which is required in connection with that use of that land.

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10 Procedure for acquiring land.

(1) Land for the purposes of this Part may be acquired by a local authority by agreement under section 70 of the [M3]Local Government (Scotland) Act 1973.

(2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of this Part, and the [M4]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.

(3) A local authority may acquire land by agreement, or may be authorised by the Secretary of State to purchase land compulsorily, for the purposes of this Part, notwithstanding that the land is not immediately required for those purposes.

(4) Where land is purchased compulsorily by a local authority for the purposes of this Part, the compensation payable in respect thereof shall be assessed by the Lands Tribunal in accordance with the [M5]Land Compensation (Scotland) Act 1963, subject to the rules set out in Schedule I.

Marginal Citations
M3 1973 c. 65.
M4 1947 c. 42.
M5 1963 c. 51.

11 Local authority may take possession of land to be acquired by agreement or appropriated for purposes of this Part.

(1) Where a local authority have agreed to purchase, or have determined to appropriate, land for the purposes of this Part, subject to the interest of the person in possession of the land, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation takes effect, the authority may, after giving to the person in possession not less than 14 days' notice and subject to subsection (2), enter on and take possession of the land or such part of it as is specified in the notice without previous consent.

(2) The powers conferred by subsection (1) are exercisable subject to payment to the person in possession of the like compensation and interest on the compensation awarded, as if the authority had been authorised to purchase the land compulsorily and that person had in pursuance of such power been required to give up possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections 83 to 88 of the [M6]Lands Clauses Consolidation (Scotland) Act 1845.

Marginal Citations
M6 1845 c. 19.

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12 Powers of dealing with land acquired or appropriated for purposes of this Part.

(1) Where a local authority have acquired or appropriated any land for the purposes of this Part, then, without prejudice to any of their other powers under this Act, the authority may—

(a) lay out and construct roads and open spaces on the land;

(b) subject to subsection (5), sell or lease the land or part of the land to any person under the condition that that person will erect on it in accordance with plans approved by the local authority, and maintain, such number of houses of such types as may be specified by the authority, and when necessary will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the authority, are necessary or desirable for, or incidental to, the development of the land as a building estate in accordance with plans approved by the authority;

(c) subject to **[**[F4]subsections (5) and (7)**]**, sell or lease the land or excamb it for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;

(d) subject to subsections (5) and (7), sell or lease any houses or any part share thereof on the land or erected by them on the land, subject to such conditions, restrictions and stipulations as they may think fit to impose in regard to the use of the houses or any part share thereof, and on any such sale they may agree to the price being secured by standard security over the subjects sold.

(2) Where a local authority sell or lease land under subsection (1), they may contribute or agree to contribute towards the expenses of the development of the land and the laying out and construction of roads on the land, subject to the condition that the roads are dedicated to the public use.

(3) Where a local authority have acquired a building which may be made suitable as a house, or a right or interest in such a building, they shall forthwith proceed to secure that it is so made suitable either by themselves executing any necessary work or by selling or leasing it to some person subject to conditions for securing that he will so make it suitable.

(4) Where a local authority acquire any land for the purposes of section 9(1)(d)(iv), they may, subject to subsection (5), sell or lease the land to any person for the purpose and under the condition that that person will carry out on the land, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired.

(5) A local authority shall not, in the exercise of their powers under subsection (1)(b), (c) or (d), or subsection (4), dispose of land which consists or forms part of a common or open space or is held for use as allotments, except with the consent of the Secretary of State.

(6) For the purposes of subsection (5), the consent of the Secretary of State may be given either generally to all local authorities, or to any class of local authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Secretary of State may consider appropriate.

(7) Notwithstanding anything in section 27(1) of the [M7]Town and Country Planning (Scotland) Act 1959 (power of local and other public authority to dispose of land without consent of a Minister), a local authority shall not, in the exercise of their

powers under subsection **[**F5(1)(c) or (d)**]**, sell or lease any **[**F6land, house or part share thereof**]** to which the housing revenue account kept under section 203 relates except with the consent of the Secretary of State unless **[**F7, in the case of a house, it is one**]** to which section 14 applies; and, in giving his consent to such transactions as are referred to in this subsection, the Secretary of State may make general directions or a direction related to a specific transaction.

(8) Subsection (7) shall not apply **[**F8, in the case of a house,**]** where—

(a) the house is being sold to a tenant or to a member of his family who normally resides with him (or to a tenant together with members of his family, as joint purchasers); or

(b) the requirements of section 14(2)(b) are satisfied.

(9) Subject to the provisions of the Town and Country Planning (Scotland) Act 1959, section 74 of the M8Local Government (Scotland) Act 1973 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall, subject to subsection (10), apply to any disposal of land by a local authority in the exercise of their powers under subsection (4), as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1973 in the exercise of any power under Part VI of that Act.

(10) The said section 74 shall not apply to the disposal of a house by a local authority, being a disposal in relation to which subsection (7) has effect.

(11) For the purposes of this section land shall be taken to have been acquired by a local authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under any enactment to acquire the land compulsorily; but the land shall not be taken to have been so acquired, if the local authority acquired it (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

Textual Amendments

F4 Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 77(a)**

F5 Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 77(b)(i)**

F6 Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 77(b)(ii)**

F7 Words substituted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 77(b)(iii)**

F8 Words inserted by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 77(c)**

Modifications etc. (not altering text)

C2 S. 12 excluded by Local Government Act 1988 (c. 9, SIF 81:1), **s. 26(5)(c)**

C3 S. 12(7) restricted (1.11.2001) by 2001 asp 10, **s. 76(2)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

S. 12(7) restricted (1.11.2001) by 2001 asp 10, s. 76(1), **Sch. 9 para. 2(1)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

Marginal Citations

M7 1959 c. 70.

M8 1973 c. 65.

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[F9]12A . . . . . .

Textual Amendments

F9 S. 12A repealed (19.12.2001) by 2001 asp 10, s. 76(1), **Sch. 10 para. 13(2)**; S.S.I. 2001/467, art. 2(2), **Sch.** Table (subject to art. 3)

13 Power of Secretary of State in certain cases to impose conditions on sale of local authority's houses, etc.

[[F10](1)**]** If any house, building, **[**[F11]or land**]** in respect of which a local authority are required by section 203 to keep a housing revenue account is sold by the authority with the consent of the Secretary of State, the Secretary of State may in giving consent impose such conditions as he thinks just.

[[F12](2) The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—

(a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as "the intending purchaser") is, or is likely to be, dependent upon, controlled by or subject to influence from the local auth-ority making the disposal or any members or officers of that authority;

(b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accomodation let on tenancies or subject to licences;

(c) the terms of the proposed disposal; and

(d) any other matters whatsoever which he considers relevant.

(3) Where the Secretary of State gives consent to a disposal by a local authority, he may give directions as to the purpose for which any capital money received by the authority in respect of the disposal is to be applied and, where any such directions are given, nothing in any enactment shall require his consent to be given for the application of the capital money concerned in accordance with the directions.**]**

Textual Amendments

F10 S. 13 renumbered as s. 13(1) as provided by Housing Act 1988 (c. 50, SIF 61), **s. 132(3)**

F11 Words substituted as provided by Housing Act 1988 (c. 50, SIF 61), s. 140(1), **Sch. 17 Pt. I para. 78**

F12 S. 13(2)(3) inserted as provide by Housing Act 1988 (c. 50, SIF 61), **s. 132(3)**

14 Powers of local authorities to sell certain houses without consent of Secretary of State.

(1) Subject to section 74(2) of the [M9]Local Government (Scotland) Act 1973 (restriction on disposal of land) but notwithstanding anything contained in section 12(6) or in any other enactment, a local authority may sell any house to which this section applies without the consent of the Secretary of State.

(2) This section applies to a house provided for the purposes of this Part, where—

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(a) the house is being sold to a tenant or to members of his family who normally reside with him (or to a tenant together with such members of his family, as joint purchasers) **[**[F13]or, in pursuance of Part III of the Housing (Scotland) Act 1988 (change of landlord)**]**; or

(b) the house is unoccupied and—

(i) it is not held on the housing revenue account maintained in terms of section 203; or

(ii) it is held on the housing revenue account and it is, in the opinion of the local authority, either surplus to its requirements or difficult to let, because it has been continuously vacant for a period of not less than 3 months immediately prior to the date of the sale and during that period it has been on unrestricted offer to any applicant on the local authority's housing list (within the meaning of section 19 (admission to housing list)).

Textual Amendments

F13 Words added by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 56(11)**

Marginal Citations

M9 1973 c. 65.

15 Power of local authority to enforce obligations against owner for time being of land.

(1) Where—

(a) a local authority have sold or excambed land acquired by them under this Act, and the purchaser of the land or the person taking the land in exchange has entered into an agreement with the authority concerning the land; or

(b) an owner of any land has entered into an agreement with the local authority concerning the land for the purposes of any of the provisions of this Act;

then, if the agreement has been recorded in the General Register of Sasines, or, as the case may be, registered in the Land Register for Scotland, it shall, subject to subsection (2), be enforceable at the instance of the local authority against persons deriving title from the person who entered into the agreement.

(2) No such agreement shall at any time be enforceable against any party who has in good faith onerously acquired right (whether completed by infeftment or not) to the land prior to the recording of the agreement or against any person deriving title from such party.

16 Disposal of land for erection of churches, etc.

Where a local authority, in the exercise of any power conferred on them by this Act, dispose of land to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.

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Management and allocation of local authority's houses

17 General management and inspection of local authority's houses.

(1) The general management, regulation and control of houses held for housing purposes by a local authority shall be vested in [F14]. . . the authority.

(2) A house held for housing purposes by a local authority shall be at all times open to inspection by the local authority for the area in which it is situated or by any officer duly authorised by them.

Textual Amendments

F14 Words in s. 17(1) repealed (27.9.1993) by 1993 c. 28, ss. 157(1), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1**.

[F15 Standards and performance in housing management]

Textual Amendments

F15 Crossheading for ss. 17A-17C inserted (1.4.1994) by 1993 c. 28, **s. 153**; S.I. 1993/2163, art. 2, **Sch. 2**.

[F16]17A Publication of information.

(1) A local authority shall, in relation to their management of the houses which they hold for housing purposes, publish each year such information as—

(a) may be prescribed by the Secretary of State about—

(i) the standard of service of management which the authority undertake to provide;

(ii) the authority's performance in the past in the achievement of that standard;

(iii) the authority's intentions for the future in relation to the achievement of that standard;

(iv) any other matter which he thinks should be included in the information to be published;

(b) the authority consider it appropriate to publish in relation to the matters mentioned in paragraph (a) above, either as a result of having consulted tenants or otherwise;

(c) the authority consider it appropriate to publish in relation to any other matter, either as a result of consulting tenants or otherwise.

(2) Before publishing such information, a local authority shall consult their tenants as to the information to be published under subsection (1) and shall take account of the characteristics of the different parts of their districts or areas and of the difference in information which may be appropriate in relation to these parts.

(3) The Secretary of State may direct a local authority to consult tenants or groups of tenants representing less than the whole of their district or area.

Textual Amendments

F16 Ss. 17A-17C inserted (1.4.1994) by 1993 c. 28, **s. 153**; S.I. 1993/2163, art. 2, **Sch. 2**.

[F17]17B Power of Secretary of State to direct local authority.

At the same time as the information is published, the local authority shall send a copy of the document in which it is published to the Secretary of State who may, if he considers that the publication is unsatisfactory, direct the local authority to publish the information in such manner as he specifies in the direction.

Textual Amendments

F17 Ss. 17A-17C inserted (1.4.1994) by 1993 c. 28, **s. 153**; S.I. 1993/2163, art. 2, **Sch. 2**.

[[F18]17C Management plan.

A local authority shall, if the Secretary of State gives them notice to do so, prepare and submit to him within 3 months after such notice, a plan for the management of the houses which they hold for housing purposes.**]**

Textual Amendments

F18 Ss. 17A-17C inserted (1.4.1994) by 1993 c. 28, **s. 153**; S.I. 1993/2163, art. 2, **Sch. 2**.

18 Byelaws for regulation of local authority's houses.

A local authority may make byelaws for the management, use and regulation of houses held by them for housing purposes.

[[F19]19 Admission to housing list

(1) An applicant for housing held by a local authority or a registered social landlord is entitled to be admitted to a housing list unless the applicant is under 16 years of age.

(2) In this section, "housing list" means a list of applicants for housing which is kept by any housing provider or jointly by or on behalf of any two or more housing providers in connection with the allocation of housing held by it or them for housing purposes.

(3) In subsection (2), "housing provider" means any local authority or any registered social landlord.**]**

Textual Amendments

F19 S. 19 substituted (1.4.2002) by 2001 asp 10, **s. 9**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

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20 Persons to have priority on housing list and allocation of housing.

(1) A local authority **[**F20and a registered social landlord**]** shall, in relation to all houses held by them for housing purposes, secure that in the selection of their tenants a reasonable preference is given—

(a) to persons who—

(i) are occupying houses which do not meet the tolerable standard; or

(ii) are occupying overcrowded houses; or

(iii) have large families; or

(iv) are living under unsatisfactory housing conditions; and

[F21(b) to homeless persons and persons threatened with homelessness (within the meaning of Part II).**]**

(2) In the allocation of **[**F22such**]** housing a local authority **[**F23and a registered social landlord**]**—

(a) shall take no account of—

(i) the length of time for which an applicant has resided in its area; or

(ii) any outstanding liability (for payment of rent or otherwise) attributable to the tenancy of any house of which the applicant is not, and was not when the liability accrued, a tenant; or

[F24(iii) any liability (for payment of rent or otherwise) of the applicant which is attributable to the applicant's tenancy of a house but which is no longer outstanding; or

(iv) any such liability which is outstanding but in respect of which subsection (2A) is satisfied; or

(v) any outstanding liability of the applicant or of any person who it is proposed will reside with the applicant which is not attributable to the tenancy of a house; or

(vi) except to the extent permitted by subsection (2B), the age of the applicant provided that the applicant has attained the age of 16 years; or

(vii) the income of the applicant and his family; or

(viii) whether, or to what value, the applicant or any of his family owns or has owned (or any of them own or have owned) heritable or moveable property;**]**

[F25(aa) shall take no account of whether an applicant is resident in their area if the applicant—

(i) is employed, or has been offered employment, in the area; or

(ii) wishes to move into the area and they are satisfied that his purpose in doing so is to seek employment; or

(iii) wishes to move into the area to be near a relative or carer; or

(iv) has special social or medical reasons for requiring to be housed within the area; or

(v) is subject to conduct amounting to harassment ("conduct" and "harassment" being construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40)) and wishes to move into the area; or

(vi) runs the risk of domestic **[**F26abuse**]** (within the meaning of section 33(3)) and wishes to move into the area; and**]**

(b) shall not impose a requirement—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) that an application must have remained in force for a minimum period; or

(ii) that a divorce or judicial separation be obtained; or

(iii) that the applicant no longer be living with, or in the same house as, some other person,

before the applicant is eligible for the allocation of housing.

[F27(2A) This subsection is satisfied in respect of an outstanding liability where—

(a) the amount of the outstanding liability is not more than one twelfth of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy in question; or

(b) the applicant—

(i) has agreed with the landlord an arrangement for paying the outstanding liability;

(ii) has made payments in accordance with that arrangement for at least three months; and

(iii) is continuing to make such payments.

(2B) A local authority and a registered social landlord may take into account the age of applicants in the allocation of—

(a) houses which have been designed or substantially adapted for occupation by persons of a particular age group;

(b) houses to persons who are or are to be in receipt of housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)) for persons of a particular age group.**]**

[F28(3) A member of a local authority shall be excluded from a decision on the allocation of local authority housing, or of housing in respect of which the local authority may nominate the tenant, where—

(a) the house in question is situated; or

(b) the applicant for the house in question resides,

in the electoral division or ward for which that member is elected.**]**

[F29(4) In the application of this section to registered social landlords, any reference to their area means the local authority area or areas, or the part of that area or those areas, in which the registered social landlord holds houses for housing purposes.**]**

Textual Amendments

F20 Words in s. 20(1) inserted (1.4.2002) by 2001 asp 10, **s. 10(2)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F21 S. 20(1)(b) substituted (1.4.2002) by 2001 asp 10, **s. 10(2)(b)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F22 Words in s. 20(2) substituted (1.4.2002) by 2001 asp 10, **s. 10(3)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F23 Words in s. 20(2) inserted (1.4.2002) by 2001 asp 10, **s. 10(3)(b)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F24 S. 20(2)(a)(iii)-(viii) substituted for s. 20(2)(a)(iii) (1.4.2002) by 2001 asp 10, **s. 10(3)(c)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F25 S. 20(2)(aa) inserted (1.4.2002) by 2001 asp 10, **s. 10(3)(d)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F26 Word in s. 20(2)(aa)(vi) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(1)**, 14(1); S.S.I. 2003/609, art. 2

F27 S. 20(2A)(2B) inserted (1.4.2002) by 2001 asp 10, **s. 10(4)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F28 S. 20(3) added (27.9.1993) by 1993 c. 28, **s. 154**; S.I. 1993/2163, **art. 2 Sch. 1**.

F29 S. 20(4) inserted (1.4.2002) by 2001 asp 10, **s. 10(5)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

21 Publication of rules relating to the housing list and to transfer of tenants.

[F30(1) It shall be the duty—

(a) of every local authority to make and to publish in accordance with subsection (4), and again within 6 months of any alteration thereof, rules governing—

F31(i) . . . . . .

(ii) the priority of allocation of houses;

(iii) the transfer of tenants from houses owned by the landlord to houses owned by other bodies;

(iv) exchanges of houses;

F31(b) . . . . . .**]**

(2) It shall be the duty of every registered **[**F32social landlord—

(a) to make rules governing the matters mentioned in subsection (1)(a)(ii) to (iv);**]**

(b) within 6 months of the making of rules under paragraph (a), and within 6 months of any alteration of such rules (whether or not made under that paragraph)—

(i) to send a copy of them to each of the bodies mentioned in subsection (3); and

(ii) to publish them in accordance with subsections (4) and (5).

(3) The bodies referred to in subsection (2)(b)(i) are—

F33(i) . . . . . .

[F34(ia) the Scottish Ministers;**]**

(ii) every local authority within whose area there is a house let, or to be let, by **[**F35a registered social landlord under a Scottish**]** secure tenancy.

(4) The rules to be published by a body in accordance with subsection (1) or (2) shall be—

(a) available for perusal; and

(b) on sale at a reasonable price; and

(c) available in summary form on request to members of the public,

at all reasonable times—

(i) in a case where the body is a local authority or a development corporation, at its principal offices and its housing department offices; and

(ii) in any other case, at its principal and other offices.

(5) Rules sent to a local authority in accordance with subsection 2(b) shall be available for perusal at all reasonable times at its principal offices.

(6) An applicant for housing provided by a body mentioned in subsection (1) or (2) shall be entitled on request to inspect any record kept by that body of information furnished by him to it in connection with his application.

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Textual Amendments

F30 S. 21(1) substituted (27.9.1993) by 1993 c. 28, **s. 155(1)**; S.I. 1993/2163, art. 2, **Sch. 1**.

F31 S. 21(1)(a)(i)(b) repealed (1.4.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(3)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F32 S. 21(2)(a) and words substituted (1.4.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(3)(b)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F33 S. 21(3)(i) repealed (1.4.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(3)(c)(i)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F34 S. 21(3)(ia) substituted (1.4.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(3)(c)(ii)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F35 Words in s. 21(3)(ii) substituted (1.4.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(3)(c)(iii)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

Housing co-operatives

F36 22 . . . . . .

Textual Amendments

F36 S. 22 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(4)**; S.S.I. 2002/433, art. 2, **Sch.**

F37 22A . . . . . .

Textual Amendments

F37 S. 22A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(4)**; S.S.I. 2002/433, art. 2, **Sch.**

Powers of Scottish Special Housing Association

[F38 23 Improvement of amenities of residential area by development corporations.

A development corporation may for the purpose of securing the improvement of the amenities of a predominantly residential area within its designated area—

(a) carry out any works on land owned by it;

(b) with the agreement of the owner of any land, carry out or arrange for the carrying out of works on that land at his or its expense or in part at the expense of both;

(c) assist (whether by grants or loans or otherwise) in the carrying out of works on land not owned by it;

(d) acquire any land by agreement.**]**

Textual Amendments

F38 S. 23 substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 8**

Status: *Point in time view as at 30/01/2004.*
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PART II

HOMELESS PERSONS

Modifications etc. (not altering text)

C4 Pt. II (ss. 24-43) excluded (26.7.1993) by 1993 c. 23, s. 4(1)(5), **Sch. 1 para. 8**; S.I. 1993/1655, **art. 2**.
Pt. II (ss. 24-43) modified (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 4**, (with Sch. 1 para. 8); S.I. 1993/1655, **art. 2**.

C5 Pt. II (ss. 24-43) restricted (19.8.1996) by 1996 c. 49, **s. 9**; S.I. 1996/2127, art. 2, **Sch. Pt. I**

Main definitions

24 Homeless persons and persons threatened with homelessness.

(1) A person is homeless if he has no accommodation in **[**[F39]the United Kingdom or elsewhere**]**.

(2) A person is to be treated as having no accommodation if there is no accommodation which he, together with any other person who normally resides with him as a member of his family or in circumstances in which the local authority consider it reasonable for that person to reside with him—

(a) is entitled to occupy by virtue of an interest in it or by virtue of an order of a court, or

(b) has a right or permission, or an implied right or permission to occupy, or in England and Wales has an express or implied licence to occupy, or

(c) occupies as a residence by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession.

[[F40](2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.

(2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the area of the local authority to whom he has applied for accommodation or for assistance in obtaining accommodation.**]**

(3) A person is also homeless if he has accommodation but—

(a) he cannot secure entry to it, or

(b) it is probable that occupation of it will lead to **[**[F41]abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14)),**]** or

[[F40](bb) it is probable that occupation of it will lead to **[**[F42]abuse (within the meaning of that Act)**]** from some other person who previously resided with that person, whether in that accommodation or elsewhere, or**]**

(c) it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it; or

(d) it is overcrowded within the meaning of section 135 and may endanger the health of the occupants **[**[F43]; or

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(e) it is not permanent accommodation, in circumstances where, immediately before the commencement of his occupation of it, a local authority had a duty under section 31(2) in relation to him.**]**

(4) A person is threatened with homelessness if it is likely that he will become homeless within **[**F44 2 months**]**.

[F45 (5) For the purposes of subsection (3)(e), "permanent accommodation" includes accommodation—

(a) of which the person is the heritable proprietor,

(b) secured by a Scottish secure tenancy,

(c) secured by an assured tenancy that is not a short assured tenancy,

(d) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the person, secured by a short Scottish secure tenancy.**]**

Textual Amendments

F39 Words in s. 24(1) substituted (1.4.2002) by 2001 asp 10, **s. 3(1)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F40 S. 24(2A)(2B), 24(3)(bb) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), **s. 65(2)**

F41 Words in s. 24(3)(b) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(2)(a)**, 14(1); S.S.I. 2003/609, art. 2

F42 Words in s. 24(3)(bb) substituted for s. 24(3)(bb)(i)(ii) (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(2)(b)**, 14(1); S.S.I. 2003/609, art. 2

F43 S. 24(3)(e) and preceding word "or" inserted (30.9.2002) by 2001 asp 10, **s. 3(1)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F44 Words in s. 24(4) substituted (1.4.2002) by 2001 asp 10, **s. 3(1)(c)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F45 S. 24(5) inserted (30.9.2002) by 2001 asp 10, **s. 3(1)(d)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

25 Priority need for accommodation.

(1) The following have a priority need for accommodation—

(a) a pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;

(b) a person with whom dependent children reside or might reasonably be expected to reside;

[F46 (c) a person who is vulnerable as a result of—

(i) old age;

(ii) mental illness;

(iii) personality disorder;

(iv) learning disability;

(v) physical disability;

(vi) chronic ill health;

(vii) having suffered a miscarriage or undergone an abortion;

(viii) having been discharged from a hospital, a prison or any part of the regular armed forces of the Crown; or

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(ix) other special reason;**]**

(d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or any other disaster.

[F47(e) a person with whom a person referred to in paragraph (c) or (d) resides or might reasonably be expected to reside;

(f) a person aged 16 or 17;

(g) a person aged 18 to 20 who satisfies either of the conditions specified in subsection (1A);

(h) a person who, by reason of that person's religion, sexual orientation, race, colour or ethnic or national origins—

(i) runs the risk of violence; or

(ii) is, or is likely to be, the victim of a course of conduct amounting to harassment;

(i) a person who runs the risk of domestic abuse (within the meaning of section 33(3)).**]**

[F48(1A) The conditions referred to in subsection (1)(g) are—

(a) that, by reason of the circumstances in which the person is living, the person runs the risk of sexual or financial exploitation or involvement in the serious misuse of alcohol, any drug (whether or not a controlled drug within the meaning of the Misuse of Drugs Act 1971 (c. 38)) or any volatile substance;

(b) that, at the time when the person ceased to be of school age (within the meaning of section 31 of the Education (Scotland) Act 1980 (c. 44)) or at any subsequent time, the person was looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36)) and the person is no longer being so looked after.

(1B) In subsection (1)(h), the references to conduct, course of conduct and harassment are to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c. 40).**]**

(2) The Secretary of State may by order made by statutory instrument—

(a) specify further descriptions of persons as having a priority need for accommodation, and

(b) amend or repeal any part of subsection (1) **[**F49, (1A) or (1B)**]** .

(3) Before making such an order the Secretary of State shall consult such associations representing relevant authorities, and such other persons, as he considers appropriate.

(4) No such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

F46 S. 25(1)(c) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 1(2)(a)**, 14(1); S.S.I. 2003/609, art. 2

F47 S. 25(1)(e)-(i) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 1(2)(b)**, 14(1); S.S.I. 2003/609, art. 2

F48 S. 25(1A)(1B) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 1(3)**, 14(1); S.S.I. 2003/609, art. 2

Status: *Point in time view as at 30/01/2004.*
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F49 Words in s. 25(2)(b) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 1(4)**, 14(1); S.S.I. 2003/609, art. 2

26 Becoming homeless intentionally.

(1) A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(2) A person becomes threatened with homelessness intentionally if he deliberately does or fails to do anything the likely result of which is that he will be forced to leave accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy.

(3) For the purposes of subsection (1) or (2) an act or omission in good faith on the part of a person who was unaware of any relevant fact shall not be treated as deliberate.

(4) Regard may be had, in determining for the purpose of subsections (1) and (2) whether it would have been reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local authority to whom he applied for accommodation or for assistance in obtaining accommodation.

27 Meaning of "local connection".

(1) Any reference in this Part to a person having a local connection with a district is a reference to his having a connection with that district—

(a) because he is, or in the past was, normally resident in it and his residence in it is or was of his own choice; or

(b) because he is employed in it, or

(c) because of family associations, or

(d) because of any special circumstances.

(2) Residence in a district is not of a person's own choice for the purposes of subsection (1) if he became resident in it—

(a) because he or any person who might reasonably be expected to reside with him—

(i) was serving in the regular armed forces of the Crown, or

(ii) was detained under the authority of any Act of Parliament, **[**F50or

(iii) was resident in accommodation provided in pursuance of section 95 (provision of support for asylum-seekers and dependants) of the Immigration and Asylum Act 1999 (c. 33),**]**

(b) in such other circumstances as the Secretary of State may by order specify.

(3) A person is not employed in a district for the purposes of subsection (1)—

(a) if he is serving in the regular armed forces of the Crown, or

(b) in such other circumstances as the Secretary of State may by order specify.

(4) An order under subsections (2) or (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F50 S. 27(2)(a)(iii) and word inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 7**, 14(1); S.S.I. 2003/609, art. 2

Duties of local authorities with respect to homelessness and threatened homelessness

28 Inquiry into cases of possible homelessness or threatened homelessness.

(1) If a person ("an applicant") applies to a local authority for accommodation, or for assistance in obtaining accommodation, and the authority have reason to believe that he may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves as to whether he is homeless or threatened with homelessness.

(2) If the authority are so satisfied, they shall make any further inquiries necessary to satisfy themselves as to—

(a) whether he has a priority need, and

(b) whether he became homeless or threatened with homelessness intentionally;

and if the authority think fit, they may also make inquiries as to whether he has a local connection with the district of another local authority in Scotland, England or Wales.

Modifications etc. (not altering text)

C6 S. 28 extended (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 2** (with Sch. 1 para. 8); S.I. 1993/1655, **art. 2**.

29 Interim duty to accommodate in case of apparent priority need.

(1) If the local authority have reason to believe that an applicant may be homeless [F51]. . ., they shall secure that accommodation is made available for his occupation

[[F52](a)**]** pending any decision which they may make as a result of their inquiries under section 28.

[[F53](b) where the applicant has, under section 35A, requested a review of a decision of the authority, until they have notified him in accordance with section 35B of the decision reached on review.**]**

[[F54](c) where, by virtue of a decision referred to in paragraph (a) or (b), the authority have a duty under section 31 to secure that accommodation of a particular description becomes available for the applicant's occupation, until such accommodation becomes available.**]**

(2) This duty arises irrespective of any local connection which an applicant may have with the district of another local authority.

[[F55](3) In subsection (1), "accommodation", in the first place where the expression occurs, does not include accommodation of such description as the Scottish Ministers may, by order made by statutory instrument, specify.

(4) Such an order may—

(a) specify any description of accommodation subject to conditions or exceptions,

Status: *Point in time view as at 30/01/2004.*
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(b) make different provision for different purposes and different areas.

(5) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

Textual Amendments

F51 Words in s. 29(1) repealed (30.9.2002) by 2001 asp 10, **s. 3(2)**; S.S.I. 2002/321, art. 3, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F52 Words in s. 29(1) renumbered as para. (a) (1.4.2002) by virtue of 2001 asp 10, **s. 4(1)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F53 S. 29(1)(b) inserted (1.4.2002) by 2001 asp 10, **s. 4(1)(b)**; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

F54 S. 29(1)(c) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 9(1)(a)**, 14(1); S.S.I. 2003/609, art. 2

F55 S. 29(3)-(5) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 9(1)(b)**, 14(1); S.S.I. 2003/609, art. 2

Modifications etc. (not altering text)

C7 S. 29(1)(b) restricted (8.1.2003) by 2002 c. 41, s. 54, **Sch. 3 para. 1(1)(f)** (with s. 159); S.I. 2002/2811, art. 2, **Sch.** (with transitional provisions in arts. 3-6)
S. 29(1)(b) restricted (8.1.2003) by 2002 c. 41, **s. 55(4)(a)** (with s. 159); S.I. 2002/2811, art. 2, **Sch.** (with transitional provisions in arts. 3-6)

30 Notification of decision and reasons.

(1) On completing their inquiries under section 28, the local authority shall notify the applicant of their decision on the question whether he is homeless or threatened with homelessness.

(2) If they notify him that their decision is that he is homeless or threatened with homelessness, they shall at the same time notify him of their decision on the question whether he has a priority need.

(3) If they notify him that their decision is that he has a priority need, they shall at the same time notify him—

(a) of their decision on the question whether he became homeless or threatened with homelessness intentionally, and

(b) whether they have notified or propose to notify any other local authority under section 33 that his application has been made.

(4) If they notify him—

(a) that they are not satisfied—

(i) that he is homeless or threatened with homelessness, or

(ii) that he has a priority need, or

(b) that they are satisfied that he became homeless or threatened with homelessness intentionally, or

(c) that they have notified or propose to notify another local authority under section 33 that his application has been made,

they shall at the same time notify him of their reasons.

[[F56](4A) They shall also notify him—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) that he may request a review of the decision and of the time within which such a request must be made, and

(b) of the advice and assistance that is available to him in connection with any such review.**]**

(5) The notice required to be given to a person under this section shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

Textual Amendments

F56 S. 30(4A) inserted (1.4.2002) by 2001 asp 10, **s. 4(2)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

Modifications etc. (not altering text)

C8 S. 30 modified (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 3(4)** (with Sch. 1 para. 8); S.I. 1993/1655, **art. 2**.

31 Duties to persons found to be homeless.

(1) This section applies where a local authority are satisfied that an applicant is homeless.

(2) Where they are satisfied that he has a priority need and are not satisfied that he became homeless intentionally, they shall, unless they notify another local authority in accordance with section 33 (referral of application on ground of local connection) secure that **[**F57permanent**]** accommodation becomes available for his occupation.

(3) **[**F58In any other case**]**, they shall—

(a) secure that accommodation is made available for his occupation for such period as they consider will give him a reasonable opportunity of himself securing accommodation for his occupation; and

(b) furnish him with advice and **[**F59assistance of such type as may be prescribed**]**, in any attempts he may make to secure that accommodation becomes available for his occupation.

F60(4) . . . . . .

[F61(5) For the purposes of subsection (2), "permanent accommodation" includes accommodation—

(a) secured by a Scottish secure tenancy,

(b) secured by an assured tenancy that is not a short assured tenancy,

(c) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp10) is satisfied in relation to the applicant, secured by a short Scottish secure tenancy.**]**

Textual Amendments

F57 Words in s. 31(2) inserted (30.9.2002) by 2001 asp 10, **s. 3(3)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F58 Words in s. 31(3) substituted (30.9.2002) by 2001 asp 10, **s. 3(3)(b)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F59 Words in s. 31(3)(b) substituted (30.9.2002) by 2001 asp 10, **s. 3(3)(b)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F60 S. 31(4) repealed (30.9.2002) by 2001 asp 10, **s. 3(3)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F61 S. 31(5) inserted (30.9.2002) by 2001 asp 10, **s. 3(3)(d)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

32 Duties to persons found to be threatened with homelessness.

(1) This section applies where a local authority are satisfied that an applicant is threatened with homelessness.

(2) Where they are satisfied that he has a priority need and are not satisfied that he became threatened with homelessness intentionally they shall take reasonable steps to secure that accommodation does not cease to be available for his occupation.

(3) **[**F62In any other case**]** they shall furnish him with advice and **[**F63assistance of such type as may be prescribed**]**, in any attempts he may make to secure that accomodation does not cease to be available for his occupation.

(4) Nothing in subsection (2) shall affect any right of a local authority to secure vacant possession of accommodation, whether by virtue of a contract or of any enactment or rule of law.

(5) In section 31 and in this section, "accommodation" does not include accommodation

[F64(a)**]** that is overcrowded within the meaning of section 135 or which may endanger the health of the occupants.

[F65(b) that does not meet any special needs of the applicant and any other person referred to in section 24(2), or

(c) that it is not reasonable for the applicant to occupy.**]**

[F66(6) Regulations made by virtue of section 31(3)(b) or subsection (3) above may make different provision for different purposes and different areas.

(7) Before making any such regulations, the Scottish Ministers shall consult—

(a) such associations representing local authorities, and

(b) such other persons,

as they think fit on the proposed regulations.

(8) In exercising their functions under section 31 or this section in respect of a person falling within section 25(1)(b), the local authority shall have regard to the best interests of the dependent children referred to in that provision **[**F67and shall, without prejudice to subsection (5) above and section 41, ensure that accommodation provided for such a person's occupation is suitable for occupation by such children, so far as consistent with their best interests**]** .**]**

Textual Amendments

F62 Words in s. 32(3) substituted for words and paras. (a)(b) in s. 32(3) (30.9.2002) by 2001 asp 10, **s. 3(4)(a)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F63 Words in s. 32(3) substituted (30.9.2002) by 2001 asp 10, **s. 3(4)(a)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F64 Words in s. 32(5) renumbered as para. (a) (1.4.2002) by virtue of 2001 asp 10, **s. 3(4)(b)(i)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F65 S. 32(5)(b)(c) inserted (1.4.2002) by 2001 asp 10, **s. 3(4)(b)(ii)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F66 S. 32(6)-(8) inserted (30.9.2002) by 2001 asp 10, **s. 3(4)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F67 Words in s. 32(8) inserted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 9(2)**, 14(1); S.S.I. 2003/609, art. 2

[F68 32A Power of the Scottish Ministers to modify application of sections 31 and 32

(1) The provisions of—

(a) section 31(2) so far as requiring that accommodation is to be permanent accommodation (within the meaning of section 31(5)), and

(b) section 32(5)(b),

do not apply in such circumstances as may be prescribed.

(2) Where—

(a) accommodation has been provided under section 31(2), and

(b) by virtue of subsection (1) above, that accommodation is not permanent accommodation (within the meaning of section 31(5)) or does not meet the special needs of the applicant and any other person referred to in section 24(2),

section 26 does not apply.**]**

Textual Amendments

F68 S. 32A inserted (30.9.2002) by 2001 asp 10, **s. 3(5)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in art. 3-5)

33 Referral of application to another local authority.

(1) If a local authority—

(a) are satisfied that an applicant is homeless and has a priority need, and are not satisfied that he became homeless intentionally, but

(b) are of opinion that the conditions are satisfied for referral of his application to another local authority,

they may notify that other local authority in Scotland, England or Wales of the fact that his application has been made and that they are of that opinion.

(2) The conditions of referral of an application to another local authority are—

(a) that neither the applicant nor any person who might reasonably be expected to reside with him has a local connection with the district of the authority to whom his application was made,

(b) that the applicant or a person who might reasonably be expected to reside with him has a local connection with that other local authority's district, and

(c) that neither that applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic **[**F69abuse**]** in that other local authority's district.

(3) For the purposes of this section a person runs the risk of domestic **[**F70abuse**]** —

(a) if he runs the risk of **[**F71abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14))**]** from a person with whom, but for the risk of **[**F70abuse**]**, he might reasonably be expected to reside, or from a person with whom he formerly resided, F72...

F72(b) . . . . . .

(4) The question whether the conditions for referral of an application are satisfied shall be determined by agreement between the notifying authority and the notified authority, or in default of agreement, in accordance with such arrangements as the Secretary of State may direct by order made by statutory instrument.

(5) An order may direct that the arrangements shall be—

(a) those agreed by any relevant authorities or association of relevant authorities, or

(b) in default of such agreement, such arrangements as appear to the Secretary of State to be suitable, after consultation with such associations representing relevant authorities, and such other persons, as he thinks appropriate.

(6) No order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

F69 Word in s. 33(2)(c) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(3)(a)**, 14(1); S.S.I. 2003/609, art. 2

F70 Word in s. 33(3) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(3)(b)(i)**, 14(1); S.S.I. 2003/609, art. 2

F71 Words in s. 33(3) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(3)(b)(ii)**, 14(1); S.S.I. 2003/609, art. 2

F72 S. 33(3)(b) and word repealed (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), **ss. 10(3)(b)(iii)**, 14(1); S.S.I. 2003/609, art. 2

34 Duties to persons whose applications are referred.

(1) Where, in accordance with section 33(1), a local authority notify another authority of an application, the notifying authority shall secure that accommodation is available for occupation by the applicant until it is determined whether the conditions for referral of his application to the other authority are satisfied.

(2) If it is determined that the conditions for referral are satisfied, the notified authority shall secure that **[**F73permanent**]** accommodation becomes available for occupation by the applicant; if it is determined that the conditions are not satisfied, the notifying authority shall secure that **[**F73permanent**]** accommodation becomes available for occupation by him.

(3) When the matter has been determined, the notifying authority shall notify the applicant—

(a) whether they or the notified authority are the authority whose duty it is to secure that **[**F73permanent**]** accommodation becomes available for his occupation, and

(b) of the reasons why the authority subject to that duty are subject to it.

[F74(3A) The notifying authority shall also notify him—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) that he may request a review of the determination and of the time within which such a request must be made, and

(b) of the advice and assistance that is available to him in connection with any such review.**]**

(4) The notice required to be given to a person under **[**F75this section**]** shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

[F76(5) For the purposes of subsection (1), "accommodation" has the meaning given in section 32(5).

(6) For the purposes of subsections (2) and (3)(a), "permanent accommodation" has the meaning given in section 31(5) as read with section 32(5).**]**

Textual Amendments

F73 Words in s. 34(2)(3)(a) inserted (30.9.2002) by 2001 asp 10, **s. 3(6)(a)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F74 S. 34(3A) inserted (1.4.2002) by 2001 asp 10, **s. 4(3)(a)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

F75 Words in s. 34(4) substituted (1.4.2002) by 2001 asp 10, **s. 4(3)(b)**; S.S.I 2002/168, art. 2,Sch. (with transitional provisions and savings in art. 3)

F76 S. 34(5)(6) inserted (30.9.2002) by 2001 asp 10, **s. 3(6)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

35 Supplementary provisions.

(1) A local authority may perform any duty under section 31 or 34 (duties to persons found to be homeless to secure that accommodation becomes available for the occupation of a person)—

(a) by making available accommodation held by them under Part I (provision of housing) or under any other enactment,

(b) by securing that he obtains accommodation from some other person, or

(c) by giving him such advice and assistance as will secure that he obtains accommodation from some other person.

(2) Without prejudice to section 210(1), a local authority may require a person to whom they were subject to a duty under section 29, 31 or 34 (interim duty to accommodate pending inquiries and duties to persons found to be homeless)—

(a) to pay such reasonable charges as they may determine in respect of accommodation which they secure for his occupation (either by making it available themselves or otherwise), or

(b) to pay such reasonable amount as they may determine in respect of sums payable by them for accommodation made available by another person.

[F77**35A Right to request review of decision**

(1) Where an applicant requests a review of a decision to which subsection (2) applies, the local authority concerned shall review the decision.

Status: *Point in time view as at 30/01/2004.*
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(2) This subsection applies to the following decisions of a local authority—

(a) any decision as to what duty (if any) is owed to the applicant under section 31 or 32,

(b) any decision to notify another authority under section 33(1),

(c) any determination under section 33(4) or 34(2) as to whether the conditions for referral of an application are satisfied,

(d) where accommodation is secured for the applicant under section 31, 32 or 34, any decision as to whether the provision of that accommodation discharges the authority's duty to the applicant under that section.

(3) A request for a review shall be made before the end of the period of 21 days beginning with the day on which the applicant is notified of the decision or such longer period as the authority may allow.

(4) There is no right to request a review of a decision reached on review.**]**

Textual Amendments

F77 S. 35A inserted (1.4.2002) by 2001 asp 10, **s. 4(4)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

[F78]35B Procedure on review

(1) A review under section 35A shall be carried out by a person senior to the person who made the decision being reviewed and who had no involvement in the making of that decision.

(2) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision reached on review.

(3) If the decision is—

(a) to confirm the original decision on any issue against the interests of the applicant, or

(b) to confirm a previous decision—

(i) to notify another authority under section 33(1), or

(ii) that the conditions are met for referral of his case,

the authority shall also notify him of the reasons for the decision.

(4) Where subsection (3) applies, notice of the decision shall not be treated as given unless and until that subsection is complied with.

(5) Any notice required to be given to an applicant under this section shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

Textual Amendments

F78 S. 35B inserted (1.4.2002) by 2001 asp 10, **s. 4(4)**; S.S.I. 2002/168, art. 2, **Sch.** (with transitional provisions and savings in art. 3)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

36 Protection of property of homeless persons and persons threatened with homelessness.

(1) This section applies where a local authority have reason to believe that an applicant is homeless or threatened with homelessness (or, in the case of an applicant to whom they owe a duty under section 29 (interim duty to accommodate pending inquiries), that he may be homeless) and that—

(a) there is a danger of loss of, or damage to, any moveable property of his by reason of his inability to protect it or deal with it, and

(b) no other suitable arrangements have been or are being made.

(2) If the authority have become subject to a duty towards the applicant under section 29, 31(2) or (3)(a), 32(2) or 34 (duty to accommodate during inquiries and duties to persons found to be homeless or threatened with homelessness), then, whether or not they are still subject to such a duty, they shall take reasonable steps to prevent the loss of the moveable property or prevent or mitigate damage to it; and if they have not become subject to such a duty, they may take any steps they consider reasonable for that purpose.

(3) The authority may for the purposes of this section—

(a) enter, at all reasonable times, any premises which are the usual place of residence of the applicant or which were his last usual place of residence, and

(b) deal with any moveable property of his in any way which is reasonably necessary, in particular by storing it or arranging for its storage.

(4) The authority may decline to take action under this section except upon such conditions as they consider appropriate in the particular case, which may include conditions as to—

(a) the making and recovery by the authority of reasonable charges for the action taken, or

(b) the disposal by the authority, in such circumstances as may be specified, of moveable property in relation to which they have taken action.

(5) When in the authority's opinion there is no longer any reason to believe that there is a danger of loss of or damage to a person's moveable property by reason of his inability to protect it or deal with it, the authority shall cease to have any duty or power to take action under this section; but property stored by virtue of their having taken such action may be kept in store and any conditions upon which it was taken into store shall continue to have effect, with any necessary modifications.

(6) Where the authority—

(a) cease to be subject to a duty to take action under this section in respect of an applicant's moveable property, or

(b) cease to have power to take such action, having previously taken such action,

they shall notify the applicant of that fact and of the reason why they are of opinion that there is no longer any reason to believe that there is a danger of loss of or damage to his moveable property by reason of his inability to protect it or deal with it.

(7) The notification shall be given to the applicant—

(a) by delivering it to him, or

(b) by leaving it, or sending it to him, at his last known address.

(8) References in this section to moveable property of the applicant include moveable property of any person who might reasonably be expected to reside with him.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Administrative provisions

37 Guidance to authorities by the Secretary of State.

(1) In relation to homeless persons and persons threatened with homelessness, a relevant authority shall have regard in the exercise of their functions to such guidance as may from time to time be given by the Secretary of State.

(2) The Secretary of State may give guidance either generally or to specified descriptions of authorities.

38 Co-operation between authorities.

Where a local authority—

(a) request another local authority in Scotland or England or Wales, a development corporation, a registered housing association or the Scottish Special Housing Association to assist them in the discharge of their functions under sections 28, 29, 31 to 33 and 34(1) and (2) (which relate to the duties of local authorities with respect to homelessness and threatened homelessness as such),

(b) request a social work authority in Scotland or a social services authority in England or Wales to exercise any of their functions in relation to a case which the local authority are dealing with under those provisions, or

(c) request another local authority in Scotland or England or Wales to assist them in the discharge of their functions under section 36 (protection of property of homeless persons and persons threatened with homelessness),

the authority to whom the request is made shall co-operate in rendering such assistance in the discharge of the functions to which the request relates as is reasonable in the circumstances.

Assistance for voluntary organisations

39 Financial and other assistance for voluntary organisations concerned with homelessness.

(1) The Secretary of State, with the consent of the Treasury, may, upon such terms and subject to such conditions as he may determine, give to a voluntary organisation concerned with homelessness, or with matters relating to homelessness, assistance by way of grant or loan or partly in the one way and partly in the other.

(2) A local authority may, upon such terms and subject to such conditions as they may determine, give to such a voluntary organisation such assistance as is mentioned in subsection (1), and may also assist such an organisation by—

(a) permitting them to use premises belonging to the authority upon such terms and subject to such conditions as may be agreed,

(b) making available furniture or other goods, whether by way of gift, loan or otherwise, and

(c) making available the services of staff employed by the authority.

(3) No assistance shall be given under subsection (1) or (2) unless the voluntary organisation first give an undertaking—

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(a) that they will use the money, furniture or other goods or premises made available to them for a specified purpose, and

(b) that they will, if the person giving the assistance serves notice on them requiring them to do so, furnish, within the period of 21 days beginning with the date on which the notice is served, a certificate giving such information as may reasonably be required by the notice with respect to the manner in which the assistance given to them is being used.

(4) The conditions subject to which assistance is given under this section shall in all cases include, in addition to any conditions determined or agreed under subsection (1) or (2), conditions requiring the voluntary organisation to—

(a) keep proper books of account and have them audited in such manner as may be specified,

(b) keep records indicating how they have used the money, furniture or other goods or premises made available to them, and

(c) submit the books of account and records for inspection by the person giving the assistance.

(5) If it appears to the person giving the assistance that the voluntary organisation have failed to carry out their undertaking as to the purpose for which the assistance was to be used, he shall take all reasonable steps to recover from the organisation an amount equal to the amount of the assistance; but no sum is so recoverable unless he has first served on the voluntary organisation a notice specifying the amount which in his opinion is recoverable and the basis on which that amount has been calculated.

Supplementary provisions

40 False statements, withholding information and failure to disclose change of circumstances.

(1) If a person, with intent to induce a local authority to believe, in connection with the exercise of their functions under this Part, that he or another person—

(a) is homeless or threatened with homelessness, or

(b) has a priority need, or

(c) did not become homeless or threatened with homelessness intentionally,

knowingly or recklessly makes a statement which is false in a material particular, or knowingly withholds information which the authority have reasonably required him to give in connection with the exercise of those functions, he shall be guilty of an offence.

(2) If before an applicant receives notification of the local authority's decision on his application there is any change of facts material to his case, he shall notify the authority as soon as possible; and the authority shall explain to every applicant, in ordinary language, the duty imposed on him by this subsection and the effect of subsection (3).

(3) A person who fails to comply with subsection (2) commits an offence unless he shows that he was not given the explanation required by that subsection or that he had some other reasonable excuse for non-compliance.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 30/01/2004.*
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Modifications etc. (not altering text)

C9 S. 40 applied (26.7.1993) by 1993 c. 23, s. 4(5), **Sch. 1 para. 5** (with Sch. 1 para. 8); S.I. 1993/1655, **art. 2**.

41 Meaning of accommodation available for occupation.

For the purposes of this Part accommodation shall be regarded as available for a person's occupation only if it is available for occupation both by him and by any other person who might reasonably be expected to reside with him; and references to securing accommodation for a person's occupation shall be construed accordingly.

42 Application of this Part to cases arising in England or Wales.

(1) Sections 33 and 34 (referral of application to another local authority and duties to persons whose applications are referred) apply—

(a) to applications referred by a local authority in England or Wales in pursuance of **[**F79section 198(1) of the Housing Act 1996**]**, and

(b) to persons whose applications are so transferred,

as they apply to cases arising under this Part.

(2) Section 38 (duty of other authorities to co-operate with local authority) applies to a request by a local authority in England or Wales under **[**F80section 213 of the Housing Act 1996**]** as it applies to a request by a local authority in Scotland.

(3) In this Part, in relation to England and Wales—

(a) "local authority" means a local housing authority within the meaning of section 1(1) of the said Act of 1985 and references to the district of such an authority are to the area of the council concerned,

(b) "social work authority" means a social services authority for the purposes of the M10Local Authority Social Services Act 1970, as defined in section 1 of that Act;

and in section 38(a) (requests for co-operation) "development corporation" means a development corporation established by an order made or having effect as if made under the M11New Towns Act 1981 or the Commission for the New Towns.

Textual Amendments

F79 Words in s. 42(1) substituted (20.1.1997) by 1996 c. 52, s. 216(3), **Sch. 17 para. 4**; S.I. 1996/2959, **art. 2**

F80 Words in s. 42(2) substituted (20.1.1997) by 1996 c. 52, s. 216(3), **Sch. 17 para. 4**; S.I. 1996/2959, **art. 2**

Marginal Citations

M10 1970 c. 42.

M11 1981 c. 64.

43 Minor definitions.

In this Part—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"accommodation available for occupation" has the meaning assigned to it by section 41;

"applicant (for housing accommodation)" has the meaning assigned to it by section 28(1);

"homeless" has the meaning assigned to it by section 24(1) to (3);

"homeless intentionally or threatened with homelessness intentionally" has the meaning assigned to it by section 26;

"local connection (in relation to the district of a local authority)" has the meaning assigned to it by section 27;

"priority need (for accommodation)" has the meaning assigned to it by section 25;

"relevant authority" means a local authority or social work authority;

"securing accommodation for a person's occupation" has the meaning assigned to it by section 41;

"social work authority" means a local authority for the purposes of the [M12]Social Work (Scotland) Act 1968, that is to say, a regional or islands council;

"threatened with homelessness" has the meaning assigned to it by section 24(4);

"voluntary organisation" means a body, not being a public or local authority, whose activities are carried on otherwise than for profit.

Marginal Citations

M12 1968 c. 49.

PART III

RIGHTS OF PUBLIC SECTOR TENANTS

Security of tenure

[F81]44 . . . . . .

Textual Amendments

F81 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

[F82]45 . . . . . .

Textual Amendments

F82 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/01/2004.*
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F83 46 . . . . . .

Textual Amendments

F83 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3-5)

F84 47 . . . . . .

Textual Amendments

F84 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F85 48 . . . . . .

Textual Amendments

F85 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F86 49 . . . . . .

Textual Amendments

F86 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F87 50 . . . . . .

Textual Amendments

F87 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F88 51 . . . . . .

Textual Amendments

F88 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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Succession

F89 52 . . . . . .

Textual Amendments

F89 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Leases

F90 53 . . . . . .

Textual Amendments

F90 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F91 54 . . . . . .

Textual Amendments

F91 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Subletting

F92 55 . . . . . .

Textual Amendments

F92 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F93 56 . . . . . .

Textual Amendments

F93 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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Repairs and improvements

F94 57 . . . . . .

Textual Amendments

F94 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F95 58 . . . . . .

Textual Amendments

F95 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F96 58A . . . . . .

Textual Amendments

F96 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F97 59 . . . . . .

Textual Amendments

F97 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F98 60 . . . . . .

Textual Amendments

F98 Ss. 44-60 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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Right to buy

61 Secure tenant's right to purchase

(1) Notwithstanding anything contained in any agreement, a tenant of a house to which this section applies (or such one or more of joint tenants as may be agreed between them) shall, subject to this Part, have the right to purchase the house at a price fixed under section 62.

(2) This section applies to every house let under a **[**F99Scottish**]** secure tenancy where—

(a) the landlord is **[**F100, or was when the tenancy was granted,**]** either—

[F101(i) a local authority, or a joint board or joint committee of two or more local authorities, or the common good of a local authority or any trust under the control of a local authority; or

F102(ia) **[** a registered social landlord; or

F103(iia) **[** Scottish Water;**]]]**

(iii) . . . . . .

F104(iv) . . . . . .

F104(v) . . . . . .

F104(vi) . . . . . .

F104(vii) . . . . . .

F104(viii) . . . . . .

F104(ix) . . . and

(b) the landlord is the heritable proprietor of the house F105. . .; and

(c) immediately prior to the date of service of an application to purchase, the tenant has been for not less than **[**F1065 years**]** in occupation of a house (including accommodation provided as mentioned in subsection (11)(n)) or of a succession of houses provided by any persons mentioned in subsection (11).

[F107(2A) For the purposes of subsection (2)(c), where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord.**]**

(3) This section also applies to a house let under a **[**F108Scottish**]** secure tenancy granted in pursuance of section **[**F109282(2) or (3)**]** (grant of **[**F108Scottish**]** secure tenancy on acquisition of defective dwelling), if the tenant would not otherwise have the right to purchase under this Part; and where it so applies—

(a) paragraph (c) of subsection (2) shall not have effect;

[F110(b) the words "beyond 5" in section 62(3)(b) and "after 5" in section 62(5)(b) shall not have effect.**]**

(4) This section does not apply—

F111(a) . . . . . .

F111(b) . . . . . .

(c) where **[**F112a landlord which is a registered social landlord**]** has at no time let (or had available for letting) more than 100 dwellings;

[F113(ca) where a landlord which is a registered social landlord is a co-operative housing association;**]** or

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F111(d) . . . . . .

[F114(e) where a registered social landlord is registered as such by virtue of section 57(2) of the Housing (Scotland) Act 2001 (asp 10) and was, on the date on which that Act received Royal Assent, a recognised body within the meaning of section 1(7) (Scottish charities) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40);**]**

[F115(ea) to a house that is one of a group of houses which has been designed for persons with special needs where one or more of the following conditions is satisfied—

(i) the houses are provided with, or situated near, special facilities for use by their tenants (whether or not exclusively),

(ii) the tenants of the houses are provided with housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)).**]**

(f) . . . . . .

F116(4A) . . . . . .

(5) Where the spouse of a tenant or, where there is a joint tenancy, the spouse of a joint tenant, occupies the house as his only or principal home but is not himself a joint tenant, the right to purchase the house under subsection (1) shall not be exercised without the consent of such spouse.

(6) A tenant may exercise his right to purchase, if he so wishes, together with one or more members of his family acting as joint purchasers, provided—

(a) that such members are at least 18 years of age, that they have, during the period of 6 months ending with the date of service of the application to purchase, had their only or principal home with the tenant and that their residence in the house is not a breach of any obligation of the tenancy; or

(b) where the requirements of paragraph (a) are not satisfied, the landlord has consented.

F116(7) . . . . . .

F116(8) . . . . . .

F116(9) . . . . . .

(10) In this section and **[**F117section 62**]**—

(a) references to occupation of a house **[**F118are to continuous occupation and**]** include occupation—

(i) in the case of joint tenants, by any one of them;

(ii) by any person occupying the house rent-free;

(iii) as the spouse of the tenant, joint tenant or of any such person;

(iv) as the child, or the spouse of a child, of a tenant or a person occupying the house rent free who has succeeded, directly or indirectly, to the rights of that person in a house occupation of which would be reckonable for the purposes of this section; but only in relation to any period when the child, or as the case may be spouse of the child, is at least 16 years of age; or

(v) . . . . . F119, as a member of the family of a tenant or a person occupying the house rent free who, not being that person's spouse or child (or child's spouse), has succeeded, directly

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or indirectly, to such rights as are mentioned in paragraph (iv); but only in relation to any period when the member of the family is at least 16 years of age.

(b) for the purpose of determining the period of occupation—

F120(i) . . . . . .

F120(ii) . . . . . .

[F121(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.**]**

[F122(iv) the landlord may, if it thinks fit, disregard as not affecting continuity any interruption in occupation which appears to it to result from circumstances outwith the control of the person in question.**]**

(11) The persons providing houses reffered to in subsection (2)(c) (occupation requirement for excercise of right to purchase) and in section 62(3)(b) (calculation of the discount from the market value) are—

(a) **[**F123any local authority**]** in Scotland; any local authority in England and Wales or in Northern Ireland; and the statutory predecessors of any such F124. . . authority, or the common good of any such **[**F123authority**]**, or any trust under the control of any such **[**F123authority**]**;

[F125(aa) a registered social landlord;**]**

(b) the Commission for the New Towns;

(c) a development corporation, an urban development corporation; and any development corporation established under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of any such authority;

[F126(d) Scottish Homes and the Scottish Special Housing Association;**]**

(e) a registered housing association;

(f) the Housing Corporation;

(g) a housing co-operative within the meaning of section 22 or a housing co-operative within the meaning of section 27B of the M13Housing Act 1985;

F127(h) . . . . . .

(i) the Northern Ireland Housing Executive or any statutory predecessor;

(j) a police authority or the statutory predecessors of any such authority;

(k) a fire authority or the statutory predecessors of any such authority;

(l) **[**F128Scottish Water**]**; any water authority constituted under corresponding legislation in England and Wales or in Northern Ireland; and the statutory predecessors of **[**F129Scottish Water and**]**any such authority;

(m) the Secretary of State, where the house was at the material time used for the purposes of the Scottish Prison Service or of a prison service for which the Home Office or the Northern Ireland Office have responsibility;

(n) the Crown, in relation to accommodation provided in connection with service whether by the tenant or his spouse as a member of the regular armed forces of the Crown;

(o) the Secretary of State, where the house was at the material time used for the purposes of a health board constituted under section 2 of the M14National Health Services (Scotland) Act 1978 or for the purposes of a corresponding board in England and Wales, or for the purposes of the statutory predecessors of any such board; or the Department of Health and Social Services for

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Northern Ireland, where the house was at the material time used for the purposes of a Health and Personal Services Board in Northern Ireland, or for the purposes of the statutory predecessors of any such board;

(p) the Secretary of State, or the Minister of Agriculture, Fisheries and Food, where the house was at the material time used for the purposes of the Forestry Commission;

(q) the Secretary of State, where the house was at the material time used for the purposes of a State Hospital provided by him under section 90 of the [M15]Mental Health (Scotland) Act 1984 or for the purposes of any hospital provided under corresponding legislation in England and Wales;

(r) the Commissioners of Northern Lighthouses;

(s) the Trinity House;

(t) the Secretary of State, where the house was at the material time used for the purposes of Her Majesty's Coastguard;

(u) the United Kingdom Atomic Energy Authority;

(v) the Secretary of State, where the house was at the material time used for the purposes of any function transferred to him under section 1(2) of the [M16]Defence (Transfer of Functions) Act 1964 or any function relating to defence conferred on him by or under any subsequent enactment;

(w) such other person as the Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament prescribe.

Textual Amendments

F99 Words in s. 61(2) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F100 Words in s. 61(2)(a) inserted (30.9.2002) by 2001 asp 10, **s. 42(1)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F101 S. 61(2)(a): sub-paras. (i) and (iia) substituted (1.4.1996) for sub-paras. (i) and (ii) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(a)**; S.I. 1996/323, **art. 4**

F102 S. 61(2)(a)(ia) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F103 S. 61(2)(a)(iia) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)

F104 S. 61(2)(a)(iii)-(ix) and in each case the preceding "or" repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(iii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F105 Words in s. 61(2)(b) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(a)(iv)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F106 Words in s. 61(2)(c) substituted (30.9.2002) by 2001 asp 10, **s. 42(1)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F107 S. 61(2A) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F108 Words in s. 61(3) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(c)(i)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F109 Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 93**

F110 S. 61(3)(b) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(c)(iii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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F111 S. 61(4)(a)(b)(d)(f) repealed (30.9.2002) by 2001 asp 10, **s. 43(2)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F112 Words in s. 61(4)(c) substituted (30.9.2002) by 2001 asp 10, **s. 43(3)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F113 S. 61(4)(ca) inserted (30.9.2002) by 2001 asp 10, **s. 43(4)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F114 S. 61(4)(e) substituted (30.9.2002) by 2001 asp 10, **s. 43(5)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F115 S. 61(4)(ea) inserted (30.9.2002) by 2001 asp 10, **s. 43(6)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F116 S. 61(4A)(7)-(9) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(6)(d)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F117 Words in s. 61(10) substituted (30.9.2002) by 2001 asp 10, **s. 42(2)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
F118 Words in s. 61(10)(a) inserted (30.9.2002) by 2001 asp 10, **s. 42(2)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
F119 Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 176(1)(a)(2), 194(4), **Sch. 12 Pt. II**
F120 S. 61(10)(b)(i)(ii) repealed (27.9.1993) by 1993 c. 28, ss. 157(2), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1**.
F121 Word "and" and s. 61(10)(b)(iii) added by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 176(1)(b)(2)**
F122 S. 61(10)(b)(iv) inserted (30.9.2002) by 2001 asp 10, **s. 42(2)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3-5)
F123 Words in s. 61(11)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(2)(b)(i)(iii)**; S.I. 1996/323, **art. 4**
F124 Words in s. 61(11)(a) repealed (1.4.1996) by 1994 c. 39, s. 180, Sch. 13 para. 152(2)(b)(ii), **Sch. 14**; S.I. 1996/323, **art. 4**
F125 S. 61(11)(aa) inserted (30.9.2002) by 2001 asp 10,ss. 112, Sch. 10 para. 13(6)(e); S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)
F126 S. 61(11)(d) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 9(d)**
F127 S. 61(11)(h) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1999/2244, **art. 4**
F128 Words in s. 61(11)(l) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)
F129 Words in s. 61(11)(l) inserted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(2)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2** (subject to savings in art. 3)

Modifications etc. (not altering text)
C10 S. 61 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**
C11 S. 61(2)(c) excluded (30.9.2002) by S.S.I. 2002/318, **art. 2(2)**

Marginal Citations
M13 1985 c. 68.
M14 1978 c. 29.
M15 1984 c. 36.
M16 1964 c. 15

[F130 61A Limitation on right to purchase from registered social landlords

(1) Subject to subsection (2), this section applies to a Scottish secure tenancy where the landlord is a registered social landlord and—

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(a) the tenancy was created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or

(b) the tenancy became a Scottish secure tenancy by virtue of such an order.

(2) This section does not apply—

(a) to a tenancy of a house acquired by the landlord after the date referred to in subsection (1)(a),

(b) to a tenancy of a house constructed by the landlord after that date if an offer of grant in connection with the construction was made by the Scottish Ministers or a local authority after that date,

(c) in such other circumstances as the Scottish Ministers may specify by order made by statutory instrument.

(3) Where this section applies, section 61(1) does not apply in relation to a house let under the tenancy until the expiry of—

(a) the period of 10 years beginning with the date referred to in subsection (1)(a), and

(b) any further period determined under subsection (4).

(4) The Scottish Ministers may if they think fit, on an application made by the landlord before the expiry of a period mentioned in subsection (3)(a) or (b), determine a further period, not exceeding 10 years, for the purposes of paragraph (b) of that subsection.

(5) The Scottish Ministers may issue guidance as to—

(a) the form of such an application,

(b) the information to be provided by the landlord in support of such an application.

(6) Before making an application under subsection (4), the landlord shall consult—

(a) any heritable creditor of the landlord having an interest in a house of the landlord's in relation to which this section applies, and

(b) such other persons as it thinks fit.

(7) If a registered social landlord so elects by notice in writing to the Scottish Ministers, subsection (3) ceases, on the date specified in the notice, to have effect in relation to houses let (whether before or after that date) by the landlord.

(8) A notice given under subsection (7) cannot be withdrawn after the date specified in it.

(9) Where a landlord gives a notice under subsection (7) it shall take such steps as are reasonable to inform—

(a) those of its tenants affected by the operation of subsection (3), and

(b) any heritable creditor referred to in subsection (6)(a),

that the notice has been given and of its effect.

(10) A statutory instrument containing an order under subsection (2)(c) is subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

Textual Amendments

F130 S. 61A inserted (30.9.2002) by 2001 asp 10, **s. 44**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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[F131 61B Limitation on right to purchase: pressured areas

(1) The Scottish Ministers may, from time to time, on a proposal from a local authority, designate any part of the local authority's area as a pressured area if they consider that—

(a) the needs of that part for housing accommodation in houses provided by the authority or by registered social landlords exceed substantially, or are likely to exceed substantially, the amount of such housing accommodation which is, or is likely to be, available in that part, and

(b) the exercise by tenants of houses in that part of the right under section 61(1) to purchase such houses is likely to increase the extent by which such needs exceed the amount of such housing accommodation.

(2) A designation under subsection (1)—

(a) may be in terms of the proposal or in such other terms as the Scottish Ministers think fit,

(b) has effect for such period, not exceeding 5 years, as the Scottish Ministers may specify.

(3) For so long as an area is designated as a pressured area, section 61(1) does not apply in relation to a house in the area—

(a) let under a tenancy created on or after the date specified in relation to the landlord in an order under section 11(1) of the Housing (Scotland) Act 2001 (asp 10), or

(b) let under a tenancy created before that date where—

(i) the tenant did not, immediately before that date, have a right under section 61(1) to purchase the house, or

(ii) the tenant succeeded to the tenancy on or after that date.

(4) In determining for the purposes of subsection (3)(b)(i) whether a tenant had a right to purchase a house, section 61(2)(c) is to be left out of account.

(5) A designation under subsection (1) shall—

(a) identify the pressured area,

(b) specify the date on which the designation takes effect, and

(c) specify the period for which it has effect.

(6) The local authority shall take such steps as are reasonable to publicise—

(a) a designation under subsection (1) and its effect,

(b) any amendment or revocation of such a designation under subsection (8) and its effect.

(7) Where a local authority landlord or a registered social landlord offers a person a tenancy of a house in an area in relation to which, on the proposed commencement date of the tenancy, a designation under subsection (1) will be in force, the landlord shall inform the person of the designation and its effect.

(8) A designation under subsection (1) may be amended or revoked by the Scottish Ministers at any time if the local authority propose that they should do so and provide reasons for that proposal sufficient to justify the amendment or revocation.

(9) A local authority may make a further proposal under subsection (1) in relation to a part of their area despite a designation under that subsection being, or having been, in force in relation to that part.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(10) Nothing in this section affects a notice to purchase served prior to the designation of an area as a pressured area.**]**

Textual Amendments

F131 S. 61B inserted (30.9.2002) by 2001 asp 10, **s. 45**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F132 61C Pressured area proposals: procedure

(1) A proposal by a local authority under section 61B(1) shall specify—

(a) the part of their area proposed for designation as a pressured area, and

(b) the period, not exceeding 5 years, for which it is proposed the designation should have effect.

(2) The Scottish Ministers may issue guidance as to—

(a) the form of such a proposal,

(b) the information to be provided by a local authority in support of such a proposal.

(3) Before making a proposal under section 61B(1) in relation to any part of their area a local authority shall consult—

(a) every registered social landlord holding houses for housing purposes in the part in question, and

(b) such bodies representing the interests of tenants and other residents in that part, and such other persons, as the authority think fit.

Textual Amendments

F132 S. 61C inserted (30.9.2002) by 2001 asp 10, **s. 45**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

[F133 61D Limitation on right to purchase: arrears of rent, council tax etc.

(1) Subsections (2) and (3) apply where a tenant serves on a landlord an application to purchase at a time when the tenant, or any joint purchaser (within the meaning of section 61(6))—

(a) has not paid the landlord rent or any other charge lawfully due to the landlord under that or any other tenancy, or

(b) has not paid any sum lawfully due in respect of—

(i) council tax in respect of the house or any other house in the local government area in which the house is situated, or

(ii) water and sewerage charges in relation to the house or any other such house.

(2) If the landlord is a local authority landlord, it is entitled (but not required) to serve on the tenant a notice of refusal under section 68.

(3) If the landlord is a registered social landlord—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) where the sum is a sum referred to in subsection (1)(a), the landlord is entitled (but not required) to serve such a notice on the tenant,

(b) where the sum is a sum referred to in subsection (1)(b), the landlord shall—

(i) consult the local authority for the area in which the house is situated, and

(ii) serve such a notice on the tenant unless the authority agree that such a notice should not be served.**]**

Textual Amendments

F133 S. 61D inserted (30.9.2002) by 2001 asp 10, **s. 46(1)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

[F134 61E Limitation on right to purchase: conduct

(1) Subsection (3) applies where—

(a) the landlord has served on the tenant a notice under section 14(2) of the Housing (Scotland) Act 2001 (asp 10) specifying a ground set out in any of paragraphs 1 to 7 of schedule 2 to that Act as the ground on which proceedings for recovery of possession of the house are to be raised, and

(b) neither of the following has occurred—

(i) the notice has ceased to be in force in accordance with section 14(5) of that Act or has been withdrawn by the landlord without proceedings for recovery of possession having been raised, or

(ii) such proceedings have been raised and have been finally determined.

(2) For the purposes of subsection (1)(b)(ii) proceedings are finally determined when—

(a) the period for appealing against the interlocutor disposing of the proceedings has expired without an appeal being lodged, or

(b) where an appeal has been lodged, the appeal is withdrawn or finally determined.

(3) Where this subsection applies, section 61(1) does not apply in relation to the house referred to in subsection (1) of this section.

(4) Nothing in this section affects an application to purchase served prior to service of the notice referred to in subsection (1).**]**

Textual Amendments

F134 S. 61E inserted (30.9.2002) by 2001 asp 10, **s. 47**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

62 The price.

(1) Subject to **[**F135subsection (6A)**]**, the price at which a tenant entitled to purchase a house under this Part shall be fixed **[**F136as at the date of service of the application to purchase**]** by subtracting a discount from the market value of the house.

(2) The market value for the purposes of this section shall be determined by **[**F137either**]**—

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(a) a qualified valuer nominated by the landlord and accepted by the tenant; or

(b) the district valuer,

[F138as the landlord thinks fit**]** as if the house were available for sale on the open market with vacant possession at the date of service of the application to purchase.

For the purposes of this subsection, no account shall be taken of any element in the market value of the house which reflects an increase in value as a result of work the cost of which would qualify for a reimbursement under **[**F139section 29 of the Housing (Scotland) Act 2001 (asp 10)**]**.

(3) Subject to subsection (5), the discount for the purposes of subsection (1) shall be—

[F140(a) 20 per cent of the market value of the house,**]**

together with

(b) an additional one per cent. **[**F141of the market value for every year beyond 5**]** of F142. . . occupation by the appropriate person, F142. . . preceding the date of service of the application to purchase, of a house (including accommodation provided as mentioned in section 61(11)(n) or of a succession of houses provided by any persons mentioned in section 61(11),

up to a maximum discount of **[**F143**]**35 per cent or £15,000, whichever is less**]**.

[F144(3A) There shall be deducted from the discount an amount equal to any previous discount, or the aggregate of any previous discounts, received by **[**F145any of the persons mentioned in subsection (4)(a)(i) to (iv)**]** on any previous purchase of a house F146. . . from a landlord who is a person specified in subsection (11) of section 61 or prescribed in an order made under that subsection, reduced by any amount of such previous discount recovered by such a landlord.**]**

[F147(3B) Where a previous discount was received by two or more persons jointly, subsection (3A) has effect as if each of them had received an equal proportion of the discount.**]**

(4) For the purposes of subsection (3)

[F148(a) the "appropriate person" is whoever of—

(i) the tenant; or

(ii) the tenant's spouse if living with him at the date of service of the application to purchase; or

(iii) a deceased spouse if living with the tenant at the time of death; or

(iv) any joint tenant who is a joint purchaser of the house,

has the longer or longest **[**F149occupation of the type mentioned in subsection (3)(b)**]**;**]**

[F150(b) where the house was provided by a body which, at any time while the house was so provided, was not a registered social landlord, the body shall, if it became a registered social landlord at any later time, be deemed to have been a registered social landlord at all times since it first provided the house**]**

F151. . .

(5) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—

(a) the minimum percentage discount,

(b) the percentage increase for each complete year of the qualifying period after the first **[**F1525**]**, or

(c) the maximum percentage discount,

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shall be such percentage, **[**F153other**]** than that specified in subsection (3), as may be specified in the order.

[F154(5A) The Scottish Ministers may by order vary the maximum amount of discount for the time being specified in subsection (3).**]**

(6) An order under subsection (5) **[**F155or (5A)**]**—

(a) may make different provision with respect to different cases or descriptions of case **[**F156or different areas**]**,

(b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and

(c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

[F157(6A) Except where the Secretary of State so determines, the discount for the purpose of subsection (1) shall not reduce the price below the amount which, in accordance with a determination made by him, is to be taken as representing so much of the costs incurred in respect of the house as, in accordance with the determination, is to be treated as—

(a) incurred in the period commencing with the beginning of the financial year of the landlord which was current 5 years prior to the date of service of the application to purchase the house or such other period as the Secretary of State may by order provide; and

(b) relevant for the purposes of this subsection,

and, if the price before discount is below that amount, there shall be no discount.

(6B) An order under subsection (6A) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may make different provision in relation to different cases or circumstances or different areas.**]**

(10) Where at the date of service of an offer to sell under section 63 any of the costs referred to in subsection **[**F158(6A)**]** are not known, the landlord shall make an estimate of such unknown costs for the purposes of that subsection.

(11) F159

Textual Amendments

F135 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 65(1)(6)**

F136 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 94**

F137 Word inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 2(a)(i)**

F138 words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 2(a)(ii)**

F139 Words in s. 62(2) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(7)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F140 S. 62(3)(a) substituted (30.9.2002) by 2001 asp 10, **s. 49(2)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F141 Words in s. 62(3)(b) substituted (30.9.2002) by 2001 asp 10, **s. 49(2)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F142 Words in s. 62(3)(b) repealed (27.9.1993) by 1993 c. 28, ss. 157(3)(a), 187(2), **Sch. 22**; S.I. 1993/2163, art. 2, **Sch. 1**

F143 Words in s. 62(3) substituted (30.9.2002) by 2001 asp 10, **s. 49(2)(c)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F144 S. 62(3A) inserted (27.9.1993) by 1993 c. 28, **s. 157(3)(b)**; S.I. 1993/2163, art. 2, **Sch. 1**.

Status: *Point in time view as at 30/01/2004.*
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F145 Words in s. 62(3A) substituted (30.9.2002) by 2001 asp 10, **s. 49(3)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F146 Words in s. 62(3A) repealed (30.9.2002) by 2001 asp 10, **s. 49(3)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F147 S. 62(3B) inserted (30.9.2002) by 2001 asp 10, **s. 49(4)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F148 S. 62(4)(a) substituted (27.9.1993) by 1993 c. 28, **s. 157(3)(c)(i)**; S.I. 1993/2163, art. 2, **Sch. 1**.
F149 Words in s. 62(4)(a) substituted (30.9.2002) by 2001 asp 10, **s. 49(5)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F150 S. 62(4)(b) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(7)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F151 Words in s. 62(4) repealed (30.9.2002) by 2001 asp 10, **s. 49(5)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F152 Word in s. 62(5)(b) substituted (30.9.2002) by 2001 asp 10, **s. 49(6)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F153 Words in s. 62(5) substituted (30.9.2002) by 2001 asp 10, **s. 49(6)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F154 S. 62(5A) inserted (30.9.2002) by 2001 asp 10, **s. 49(7)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F155 Words in s. 62(6) inserted (30.9.2002) by 2001 asp 10, **s. 49(8)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F156 Words in s. 62(6)(a) inserted (30.9.2002) by 2001 asp 10, **s. 49(8)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
F157 S. 62(6A)(6B) substituted for s. 62(7)–(9) by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 65(2)(6)**
F158 "(6A)" substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 65(3)(6)**
F159 S. 62(11)–(13) repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 65(4)(6), 72(3), **Sch. 10**

Modifications etc. (not altering text)
C12 S. 62 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

F160 62A . . . . . .

Textual Amendments
F160 S. 62A repealed (30.9.2002) by 2001 asp 10, **s. 51(1)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Procedure

63 Application to purchase and offer to sell.

(1) A tenant who seeks to exercise a right to purchase a house purchase and offer under section 61 shall serve on the landlord a notice (referred to in this to sell. Part as an "application to purchase") which shall be in such form as the Secretary of State shall by order made by statutory instrument prescribe, and shall contain—

(a) notice that the tenant seeks to exercise the right to purchase;

(b) a statement of any period of occupancy of a house on which the tenant intends to rely for the purposes of section 61 and 62; and

(c) the name of any joint purchaser within the meaning of section 61(6) F161 . . .

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F161(d) . . . . . .

[F162(1A) Where the landlord is a registered social landlord the tenant shall, when serving on the landlord the application to purchase, give the landlord a certificate issued by the local authority for the area in which the house is situated stating—

(a) whether the tenant and any joint purchaser have, as at the date of the certificate (which must be no more than one month before the date of the application to purchase), paid the sums referred to in section 61D(1)(b), and

(b) if they have not, the amount of any such sum lawfully due by the tenant or, as the case may be, the joint purchaser as at the date of the certificate.

(1B) A local authority shall, on the application of a tenant or joint purchaser referred to in subsection (1A), issue to that person free of charge a certificate as to the matters specified in paragraphs (a) and (b) of that subsection so far as relating to that person.

(1C) A certificate under subsection (1B) shall be issued not later than 21 days after the receipt of the application by the authority.**]**

(2) Where an application to purchase is served on a landlord, and the landlord does not serve a notice of refusal under sections 68 to 70 it shall, within 2 months after service of the application to purchase, serve on the tenant a notice (referred to in this Part as an "offer to sell") containing—

(a) the market value of the house determined under section 62(2);

(b) the discount calculated under section 62(3);

(c) the price fixed under section 62(1);

F163(cc) . . . . . .

(d) any conditions which the landlord intends to impose under section 64; and

(e) an offer to sell the house to the tenant and any joint purchaser named in the application to purchase at the price referred to in paragraph (c) and under the conditions referred to in paragraph (d).

F163(3) . . . . . .

Textual Amendments

F161 S. 63(1)(d) and preceeding word "and" repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(8)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F162 S. 63(1A)-(1C) inserted (30.9.2002) by 2001 asp 10, **s. 46(2)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F163 S. 63(2)(cc)(3) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(8)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C13 S. 63 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

64 (1) Subject to section 75, an offer to sell under section 63(2) shall contain such conditions as are reasonable, provided that—

(a) the conditions shall have the effect of ensuring that the tenant has as full enjoyment and use of the house as owner as he has had as tenant;

(b) the conditions shall secure to the tenant such additional rights as are necessary for his reasonable enjoyment and use of the house as owner (including,

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without prejudice to the foregoing generality, common rights in any part of the building of which the house forms part) and shall impose on the tenant any necessary duties relative to rights so secured; and

(c) the conditions shall include such terms as are necessary to entitle the tenant to receive a good and marketable title to the house.

(2) A condition which imposes a new charge or an increase of an existing charge for the provision of a service in relation to the house shall provide for the charge to be in reasonable proportion to the cost to the landlord of providing the service.

(3) No condition shall be imposed under this section which has the effect of requiring the tenant to pay any expenses of the landlord.

(4) Subject to subsection (6), no condition shall be imposed under this section which has the effect of requiring the tenant or any of his successors in title to offer to the landlord, or to any other person, an option to purchase the house in advance of its sale to a third party, except in the case of a house which has facilities which are substantially different from those of an ordinary house and which has been designed or adapted for occupation by a person of pensionable age or disabled person whose special needs require accommodation of the kind provided by the house.

(5) Where an option to purchase permitted under subsection (4) is exercised, the price to be paid for the house shall be determined by the district valuer who shall have regard to the market value of the house at the time of the purchase and to any amount due to the landlord under section 72 (recovery of discount on early re-sale).

(6) Subsection (4) shall not apply to houses in an area which is designated a rural area by the **[**F164local authority**]** within whose area it is situated where the Secretary of State, on the application of the **[**F164local authority**]** concerned, makes an order, which shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, to that effect.

(7) An order under subsection (6) may be made where—

(a) within the said rural area more than one-third of all relevant houses have been sold **[**F165whether under this Part or otherwise**]**; and

[F166(b) the Secretary of State is satisfied that an unreasonable proportion of the houses sold consists of houses which have been resold and are not—

(i) being used as the only or principal homes of the owners; or

(ii) subject to regulated tenancies within the meaning of section 8 of the Rent (Scotland) Act M17 1984 or assured tenancies for the purposes of Part II of the Housing (Scotland) Act 1988.**]**

(8) For the purposes of subsection (7)(a), a "relevant house" is one of which—

(a) at 3rd October 1980, the council concerned, or

(b) at 7th January 1987, a registered housing association, is landlord.

(9) A condition imposed by virtue of subsection (6) shall not have effect in relation to any house for more than 10 years from the date of its conveyance to a tenant in pursuance of his right to purchase under this Part and subsection (5) shall apply to any option to purchase exercised under such a condition.

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Textual Amendments

F164 Words in s. 64(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(3)**; S.I. 1996/323, **art. 4**

F165 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 11(a)**

F166 S. 64(7)(b) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 11(b)**

Modifications etc. (not altering text)

C14 S. 64 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations

M17 1984 c.58.

65 Variation of conditions.

(1) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase, but—

(a) he considers that a condition contained in the offer to sell is unreasonable; or

(b) he wishes to have a new condition included in it; or

(c) he has not previously notified the landlord of his intention to exercise that right together with a joint purchaser, but now wishes to do so; or

(d) he has previously notified the landlord of his intention to exercise that right together with any joint purchaser but now wishes to exercise the right without that joint purchaser,

he may request the landlord to strike out or vary the condition, or to include the new condition, or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of the joint purchaser, as the case may be, by serving on the landlord within one month after service of the offer to sell a notice in writing setting out his request; and if the landlord agrees, it shall accordingly serve an amended offer to sell on the tenant within one month of service of the notice setting out the request.

(2) A tenant who is aggrieved by the refusal of the landlord to agree to strike out or vary a condition, or to include a new condition, or to make the offer to sell to the tenant and the joint purchaser, or to withdraw the offer to sell in respect of any joint purchaser under subsection (1), or by his failure timeously to serve an amended offer to sell under the said subsection, may, within one month or, with the consent of the landlord given in writing before the expiry of the said period of one month, within two months of the refusal or failure, refer the matter to the Lands Tribunal for determination.

(3) In proceedings under subsection (2), the Lands Tribunal may, as it thinks fit, uphold the condition or strike it out or vary it, or insert the new condition or order that the offer to sell be made to the tenant and the joint purchaser, or order that the offer to sell be withdrawn in respect of any joint purchaser, and where its determination results in a variation of the terms of the offer to sell, it shall order the landlord to serve on the tenant an amended offer to sell accordingly within 2 months thereafter.

Modifications etc. (not altering text)

C15 S. 65 modified (13.3.1992) by S.I. 1992/325, regs.3, 5, 7, **Sch. 1**

Status: *Point in time view as at 30/01/2004.*
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66 Notice of acceptance.

(1) Where an offer to sell is served on a tenant and he wishes to exercise his right to purchase and—

(a) he does not dispute the terms of the offer to sell by timeously serving a notice setting out a request under section 65(1) or by referring the matter to the Lands Tribunal under subsection (1)(d) of section 71; or

(b) any such dispute has been resolved;

the tenant shall [F167]. . . serve a notice of acceptance on the landlord within 2 months of whichever is the latest of—

(i) the service on him of the offer to sell;

(ii) the service on him of an amended offer to sell (or if there is more than one, of the latest amended offer to sell);

(iii) a determination by the Lands Tribunal under section 65(3) which does not require service of an amended offer to sell;

(iv) a finding or determination of the Lands Tribunal in a matter referred to it under section 71(1)(d) where no order is made under section 71(2)(b);

(v) the service of an offer to sell on him by virtue of subsection (2)(b) of section 71;

[F168](vi) . . . . . .

[F168](vii) . . . . . .

(2) Where an offer to sell (or an amended offer to sell) has been served on the tenant and a relative notice of acceptance has been duly served on the landlord, a contract of sale of the house shall be constituted between the landlord and the tenant on the terms contained in the offer (or amended offer) to sell.

Textual Amendments

F167 Words in s. 66(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(9)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F168 S. 66(1)(vi)(vii) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(9)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C16 S. 66 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

[F169 66A Abatement of purchase price on landlord's failure before contract of sale.

(1) Where a tenant who seeks to exercise a right to purchase a house under section 61 has served an application to purchase on the landlord and the landlord—

(a) not having served a notice of refusal, has failed to serve an offer to sell on the tenant within 2 months of the application or, where an amended offer to sell falls to be served on the tenant under subsection (3) of section 63, has failed to do so within the time limit specified in that subsection;

(b) having agreed to serve an amended offer to sell on the tenant in response to a request under section 65(1), has failed to do so within one month of the request;

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) following an order by the Lands Tribunal to serve an amended offer to sell on the tenant under section 65(3), has failed to do so within 2 months of the date of the order;

(d) following a finding by the Lands Tribunal under section 68(4), has failed to serve an offer to sell within 2 months of the date of the finding; or

(e) following an order by the Lands Tribunal under section 71(2)(b), has failed to serve an offer or amended offer to sell within the time specified in the order,

the tenant may serve on the landlord a notice in writing requiring the landlord to serve on him, within one month of the date of the notice, the offer to sell or (as the case may be) the amended offer to sell which the landlord has failed to serve.

(2) Where the landlord fails to serve the offer to sell or the amended offer to sell within one month of the date of the notice in writing under subsection (1), the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date on which the one month period expired and ending with the date on which the offer is served.**]**

Textual Amendments

F169 Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, **s. 144**; S.I. 1993/2163, art. 2, **Sch. 1**.

66B [F170]Abatement of purchase price on landlord's failure after contract of sale.

(1) Where the landlord has failed and continues to fail to deliver a good and marketable title to the tenant in accordance with the contract of sale, the tenant may at any time serve on the landlord a notice (the "initial notice of delay") setting out the landlord's failure and specifying—

(a) the most recent action of which the tenant is aware which has been taken by the landlord in fulfilment of his duties under this Part;

(b) a period (the "response period"), of not less than one month beginning on the date of service of the notice, within which the service by the landlord of a counter notice under subsection (2) will have the effect of cancelling the initial notice of delay.

(2) If there is no action under this Part which, at the beginning of the response period it was for the landlord to take in order to grant a good and marketable title to the tenant in implementation of the contract of sale, the landlord may serve on the tenant a counter notice either during or after the response period.

(3) At any time when—

(a) the response period specified in the initial notice of delay has expired; and

(b) the landlord has not served a counter notice under subsection (2),

the tenant may serve on the landlord a notice (the "operative notice of delay") that this subsection shall apply to the price fixed under section 62; and thereupon the price fixed under section 62 shall be reduced by the amount of rent paid by the tenant during the period commencing with the date of service of the operative notice of delay and ending with whichever is the earlier of the following dates—

(i) the date of service by the landlord of a counter notice; or

(ii) the date of delivery by the landlord of a good and marketable title in implementation of the contract of sale.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where the landlord has served a counter notice under subsection (2) the tenant (together with any joint purchaser) may, by serving on the clerk to the Lands Tribunal a copy of the initial notice of delay and of the landlord's counter notice together with a request for the matter to be so referred, refer the matter to the Tribunal for its consideration under subsection (5).

(5) Where the matter has been so referred to the Lands Tribunal it shall consider whether or not in its opinion action which would have enabled a good and marketable title to be delivered in implementation of the contract of sale could have been taken by the landlord and shall find accordingly.

(6) Where the Lands Tribunal finds that action could have been taken by the landlord the tenant shall be entitled to serve an operative notice of delay as if the landlord had not served a counter notice and in that event the commencement date for the purposes of subsection (3) shall be the date on which an operative notice of delay could first have been served if no counter notice had been served.

Textual Amendments
F170 Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, **s. 144**; S.I. 1993/2163, art. 2, **Sch. 1**.

66C F171 Provisions relating to sections 66A and 66B.

(1) Where there is more than one period in respect of which the price fixed under section 62 can be reduced under section 66A(2) or 66B(3), the periods may be aggregated and the price reduced by the total amount of the rent.

(2) If the period in respect of which the price fixed can be so reduced is, or if the periods aggregated under subsection (1) together amount to, more than twelve months, the amount by which the price fixed under section 62 would, apart from this subsection, fall to be reduced shall be increased by 50% or such other percentage as the Secretary of State may by order made by statutory instrument and subject to annulment in pursuance of a resolution of either House of Parliament provide.

Textual Amendments
F171 Ss. 66A-66C inserted (27.9.1993) by 1993 c. 28, **s. 144**; S.I. 1993/2163, art. 2, **Sch. 1**.

F172 67 . . . . . .

Textual Amendments
F172 S. 67 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(10)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

68 Refusal of applications.

(1) Where a landlord on which an application to purchase has been served disputes the tenant's right to purchase a house under section 61, it shall by notice (referred to in this

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Part as a "notice of refusal") served within one month after service of the application to purchase—

(a) refuse the application; or

(b) offer to sell the house to the tenant under section 14, or under any other power which the landlord has to sell the house.

(2) Where a landlord on which an application to purchase has been served, after reasonable enquiry (which shall include reasonable opportunity for the tenant to amend his application), is of the opinion that information contained in the application is incorrect in a material respect it shall issue a notice of refusal within 2 months of the application to purchase.

(3) A notice of refusal shall specify the grounds on which the landlord disputes the tenant's right to purchase or, as the case may be, the accuracy of the information.

(4) Where a landlord serves a notice of refusal on a tenant under this section, the tenant may within one month thereafter apply to the Lands Tribunal for a finding that he has a right to purchase the house under section 61 on such terms as it may determine.

Modifications etc. (not altering text)
C17 S. 68 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Houses provided for special purposes

69 Secretary of State's power to authorise refusal to sell certain houses provided for persons of pensionable age.

(1) This section applies to a house which has facilities which are substantially different from those of an ordinary house and which has been designed or adapted for occupation by a person of pensionable age whose special needs require accommodation of the kind provided by the house.

F173(1A) . . . . . .

(2) Where an application to purchase a house is served on a landlord and it appears to the landlord that—

(a) the house is one to which this section applies; and

(b) the tenant would, apart from this section, have a right under section 61 to purchase the house,

the landlord may, within one month after service of the application to purchase, instead of serving an offer to sell on the tenant, make an application to the Secretary of State under this section.

(3) An application under subsection (2) shall specify the facilities and features of design or adaptation which in the view of the landlord cause the house to be a house to which this section applies.

(4) Where the Secretary of State has received an application under this section and it appears to him that the house concerned is one to which this section applies, he shall authorise the landlord to serve on the tenant a notice of refusal under this section, which shall be served as soon as is practicable after the authority is given and in any event within one month thereafter.

Status: *Point in time view as at 30/01/2004.*
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(5) A notice of refusal served under subsection (4) shall specify the facilities and features specified for the purposes of subsection (3) and that the Secretary of State's authority for service of the said notice has been given.

(6) Where the Secretary of State refuses an application made under subsection (2), the landlord shall serve on the tenant an offer to sell under section 63(2)—

(a) within the period mentioned in that section; or

(b) where the unexpired portion of that period is less than one month or there is not an unexpired portion of that period, within one month of the Secretary of State's refusal.

Textual Amendments

F173 S. 69(1A) repealed (30.9.2002) by 2001 asp 10, **s. 51(2)**; S.S.I. 2002/321, **art. 2 Sch.** (subject to transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C18 S. 69 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

70 Power to refuse to sell certain houses required for educational purposes.

(1) Where an application to purchase a house is served on **[**F174a**]** council as landlord and—

(a) the house is—

(i) held by the council for the purposes of its functions as education authority; and

(ii) required for the accommodation of a person who is or will be employed by the council for those purposes;

(b) the council is not likely to be able reasonably to provide other suitable accommodation for the person mentioned in paragraph (a)(ii); and

(c) the tenant would, apart from this section, have a right under section 61 to purchase the house,

the landlord may, within one month of service of the application to purchase, serve a notice of refusal on the tenant.

(2) A refusal by the landlord under subsection (1) shall contain sufficient information to demonstrate that the conditions mentioned in paragraphs (a) and (b) of that subsection are fulfilled in relation to the house.

[F175(3) In this section "council" means the local authority for Orkney Islands, Shetland Islands or Western Isles.**]**

Textual Amendments

F174 Words in s. 70(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(4)(a)**; S.I. 1996/323, **art. 4**

F175 S. 70(3) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(4)(b)**; S.I. 1996/323, **art. 4**

Status: *Point in time view as at 30/01/2004.*
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[F176 Houses liable to demolition

Textual Amendments

F176 S. 70A and cross-heading inserted (30.9.2002) by 2001 asp 10, **s. 48**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F177 70A Authorisation of refusal to sell houses liable to demolition

(1) Where—

(a) an application to purchase a house liable to demolition is served on a landlord, and

(b) it appears to the landlord that the tenant would, apart from this section, have a right under section 61 to purchase the house,

the landlord may, within one month of service of the application to purchase, instead of serving an offer to sell on the tenant, apply to the Scottish Ministers for authority to serve a notice of refusal.

(2) For the purposes of this section a house is liable to demolition if the landlord has made a decision to demolish the house.

(3) An application to the Scottish Ministers under subsection (1) shall be accompanied by such information in support of the application as the Scottish Ministers may prescribe by order made by statutory instrument.

(4) The Scottish Ministers may grant such an application if they consider it reasonable to do so in all the circumstances; and in deciding whether to grant the application they shall have regard in particular to—

(a) the period which is expected to elapse before the landlord demolishes the house in question; and

(b) the extent to which, before deciding to demolish the house, the landlord consulted the tenant about the proposal to demolish it and the effect of the proposal on the tenant's right under section 61 to purchase it.

(5) Where the Scottish Ministers grant such an application the landlord shall serve on the tenant a notice of refusal under this section as soon as practicable, and in any event within one month of the granting of the application.

(6) Where the Scottish Ministers refuse such an application the landlord shall serve on the tenant an offer to sell under section 63(2) before—

(a) the expiry of the period of one month beginning with the refusal; or

(b) if later, the expiry of the period mentioned in that section.

(7) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

Textual Amendments

F177 S. 70A and cross-heading inserted (30.9.2002) by 2001 asp 10, **s. 48**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

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Lands Tribunal

71 Reference to Lands Tribunal.

(1) Where—

(a) a landlord who has been duly served with an application to purchase fails to issue timeously either an offer [F178]. . . to sell (even if only such offer [F178]. . . to sell as is mentioned in paragraph (d)) or a notice of refusal; or

(b) the Lands Tribunal has made a determination under section 65(3) (variation of terms of offer to sell) and the landlord has failed to issue an amended offer to sell within 2 months thereafter; or

(c) the Lands Tribunal has made a finding under section 68(4) (refusal of right to purchase) or has made an order under subsection (2)(b) of this section and the landlord has not duly progressed the application to purchase in accordance with that finding or, as the case may be, order, within 2 months thereafter; or

(d) a landlord has served an offer [F178]. . . to sell whose contents do not conform with the requirements of paragraphs (a) to (e) of section 63(2) (or where such contents were not obtained in accordance with the provisions specified in those paragraphs) [F178]. . .

the tenant (together with any joint purchaser) may refer the matter to the Lands Tribunal by serving on the clerk to that body a copy of any notice served and of any finding or determination made under this Part, together with a statement of his grievance.

(2) Where a matter has been referred to the Lands Tribunal under subsection (1), the Tribunal shall consider whether in its opinion—

(a) any of paragraphs (a) to (c) of that subsection apply, and if it so finds it may—

(i) give any consent, exercise any discretion, or do anything which the landlord may give, exercise or do under or for the purposes of sections 61 to 84; and

(ii) issue such notices and undertake such other steps as may be required to complete the procedure provided for in sections 63 and 65 to [F179]66C];

and any consent given, any discretion exercised, or anything done, under the foregoing provisions of this subsection shall have effect as if it had been duly given, exercised or done by the landlord; or

(b) paragraph (d) of that subsection applies, and if it so finds it may order the landlord to serve on the tenant an offer [F178]. . . to sell, in proper form, under section 63(2) [F178]. . . within such time (not exceeding 2 months) as it may specify.

(3) Nothing in this section shall affect the operation of the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

Textual Amendments

F178 Words in s. 71(1)(a)(d)(2)(b) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(11)(a)(i)(ii)(b)(ii)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

F179 Words in s. 71(2)(a)(ii) substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(11)(b)(i)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/01/2004.*
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Modifications etc. (not altering text)
C19 S. 71 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Recoverability of discount

72 Recovery of discount on early re-sale.

(1) A person who has purchased a house in exercise of a right to purchase under section 61, or any of his successors in title, who sells or otherwise disposes of the house (except as provided for in section 73) before the expiry of 3 years from the date of service of a notice of acceptance by the tenant under section 66, shall be liable to repay to the landlord, in accordance with subsection (3), a proportion of the difference between the market value determined, in respect of the house, under section 62(2) and the price at which the house was so purchased.

[[F180](1A) Where a tenant has served on the landlord a notice under section 66A(1), the commencement of the period of 3 years referred to in subsection (1) shall be backdated by a period equal to the time (or, where section 66C(1) applies, the aggregate of the times) during which, by virtue of section 66A(2), any payment of rent falls to be taken into account.**]**

(2) Subsection (1) applies to the disposal of part of a house except in a case where—

(a) it is a disposal by one of the parties to the original sale to one of the other parties; or

(b) the remainder of the house continues to be the only or principal home of the person disposing of the part.

(3) The proportion of the difference which shall be paid to the landlord shall be—

(a) 100 per cent. where the disposal occurs within the first year after the date of service of notice,

(b) 66 per cent. where it occurs in the second such year, and

(c) 33 per cent. where it occurs in the third such year.

(4) Where as regards a house or part of a house there is, within the period mentioned in subsection (1), more than one disposal to which that subsection would (apart from the provisions of this subsection) apply, that subsection shall apply only in relation to the first such disposal of the house, or part of the house.

(5) Where a landlord secures the liability to make a repayment under subsection (1) the security shall, notwithstanding section 13 of the [M18]Conveyancing and Feudal Reform (Scotland) Act 1970, have priority immediately after—

(a) any standard security granted in security of a loan either—

(i) for the purchase of the house, or

(ii) for the improvement of the house,and any interest present or future due thereon (including any such interest which has accrued or may accrue) and any expenses or outlays (including interest thereon) which may be, or may have been, reasonably incurred in the exercise of any power conferred on the lender by the deed expressing the said standard security; and

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(b) if the landlord consents, a standard security over the house granted in security of any other loan, and in relation thereto any such interest, expenses or outlays as aforesaid.

(6) For the avoidance of doubt, paragraph (a) of subsection (5) applies to a standard security granted in security both for the purpose mentioned in sub-paragraph (i) and for that mentioned in sub-paragraph (ii) as it applies to a standard security so granted for only one of those purposes.

(7) The liability to make a repayment under subsection (1) shall not be imposed as a real burden in a disposition of any interest in the house.

Textual Amendments
F180 S. 72(1A) inserted (27.9.1993) by 1993 c. 28, **s. 145**; S.I. 1993/2163, art. 2, **Sch. 1**.

Modifications etc. (not altering text)
C20 S. 72 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations
M18 1970 c. 35.

73 Cases where discount etc. is not recoverable .

(1) There shall be no liability to make a repayment under section 72(1) where the disposal is made—

(a) by the executor of the deceased owner acting in that capacity; or

(b) as a result of a compulsory purchase order; or

(c) in the circumstances specified in subsection (2).

(2) The circumstances mentioned in subsection(1)(c) are that the disposal—

(a) is to member of the owner's family who has lived with him for a period of 12 months before the disposal; and

(b) is for no consideration:

Provided that, if the disponee disposes of the house before the expiry of the 3 year period mentioned in section 72(1), the provisions of tht section will apply to him as if this was the first disposal and he was the original purchaser.

Modifications etc. (not altering text)
C21 S. 73 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

[F181 Rent to loan scheme]

Textual Amendments
F181 Ss. 73A-73D and crossnote inserted (27.9.1993) by 1993 c. 28, **s. 142**; S.I. 1993/2163, art. 2, **Sch. 1**.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F182 73A . . . . . .

Textual Amendments

F182 Ss. 73A-73D repealed (30.9.2002) by 2001 asp 10, **s. 51(1)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F183 73B . . . . . .

Textual Amendments

F183 Ss. 73A-73D repealed (30.9.2002) by 2001 asp 10, **s. 51(1)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F184 73C . . . . . .

Textual Amendments

F184 Ss. 73A-73D repealed (30.9.2002) by 2001 asp 10, **s. 51(1)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F185 73D . . . . . .

Textual Amendments

F185 Ss. 73A-73D repealed (30.9.2002) by 2001 asp 10, **s. 51(1)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

74 Duties of landlords.

It shall be the duty of every landlord of a house to which sections 61 to 84 **F186**. . . apply to make provision for the progression of applications under those sections in such manner as may be necessary to enable any tenant who wishes to exercise his rights under this Part to do so, and to comply with any regulations which may be made by statutory instrument by the Secretary of State in that regard.

Textual Amendments

F186 Words in s. 74 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(12)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C22 S. 74 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Status: *Point in time view as at 30/01/2004.*
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75 Agreements affecting right to purchase.

(1) Subject to sections 61(1) [F187]. . . and 72(1)—

(a) no person exercising or seeking to exercise a right to purchase under section 61(1) shall be obliged, notwithstanding any agreement to the contrary, to make any payment to or lodge any deposit with the landlord which he would not have been obliged to make, or as the case may be lodge, had he not exercised (or sought to exercise) the right to purchase;

(b) a landlord mentioned in section 61(2)(a)(i) or (ii) is required neither to enter into, nor to induce (or seek to induce) any person to enter into, such agreement as is mentioned in paragraph (a), or into any agreement which purports to restrict that person's rights under this Part.

(2) Paragraph (a) of subsection (1) does not apply to the expenses in any court proceedings.

Textual Amendments

F187 Words in s. 75(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(13)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C23 S. 75 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

[F188]75A . . . . . .

Textual Amendments

F188 S. 75A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(14)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

[F189]76 . . . . . .

Textual Amendments

F189 S. 76 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(14)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Powers of Secretary of State

77 Secretary of State may make provision for vesting in landlord to bring into being tenant's right to purchase house.

(1) Subject to subsection (2), where, but for the fact that a landlord is not the heritable proprietor of land on which houses have been let (or made available for letting) by it, one or more of its tenants would have a right to purchase under section 61, the Secretary of State may by order made by statutory instrument provide that the whole of the heritable proprietor's interest in the land shall vest in the landlord.

Status: *Point in time view as at 30/01/2004.*
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(2) An order under this section shall only be made where—

(a) heritable proprietor is a body mentioned in paragraph (a) of section 61(2); and

(b) the Secretary of State is of the opinion, after consultation with the heritable proprietor and with the landlord, that the order is necessary if the right to purchase is to come into being.

(3) An order under this section shall have the same effect as a declaration under **[**F190section 195 of the Town and Country Planning (Scotland) Act 1997**]** (general vesting declarations), except that, in relation to such an order, the enactments mentioned in Schedule 6 shall have effect subject to the modifications specified in that Schedule.

(4) Compensation under the M19Land Compensation (Scotland) Act 1963, as applied by subsection (3) and Schedule 6 shall be assessed by reference to values current on the date the order under this section comes into force.

(5) An order under this section shall have no effect until approved by resolution of each House of Parliament.

F191(6) . . . . . .

(7) An order under this section may include such incidental, consequential or supplementary provisions as may appear to the Secretary of State to be necessary or expedient for the purposes of this Act.

Textual Amendments

F190 Words in s. 77(3) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 40(1)**

F191 S. 77(6) repealed (27.7.2000) by S.I. 2000/2040, arts. 1(1), 2(1)(2), **Sch. Pt. I para. 13 Pt. III**

Marginal Citations

M19 1963 c. 51.

78 Secretary of State may give directions to modify conditions of sale.

(1) Where it appears to the Secretary of State that the inclusion of conditions of a particular kind in offers to sell would be unreasonable he may by direction require landlords generally, landlords of a particular description, or particular landlords not to include conditions of that kind (or not to include conditions of that kind unless modified in such manner as may be specified in the direction) in offers to sell served on or after a date so specified.

(2) Where a condition's inclusion in an offer to sell—

(a) is in contravention of a direction under subsection (1) or

(b) in a case where the tenant has not by the date specified in such a direction served a relative notice of acceptance on the landlord, would have been in such contravention had the offer to sell been served on or after that date,

the condition shall have no effect as regards the offer to sell.

(3) A direction under subsection (1) may—

(a) make different provision in relation to different areas, cases or classes of case and may exclude certain areas, cases or classes of case; and

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) be varied or withdrawn by a subsequent direction so given.

(4) Section 211 of the [M20]Local Government (Scotland) Act 1973 (provision for default of local authority) shall apply as regards a failure to comply with a requirement in a direction under subsection (1) as that section applies as regards such failure as is mentioned in subsection (1) thereof.

Modifications etc. (not altering text)
C24 S. 78 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations
M20 1973 c. 65.

79 Secretary of State may give financial and other assistance for tenants involved in proceedings.

(1) Where, in relation to any proceedings, or prospective proceedings, to which this section applies, a tenant or purchaser is an actual or prospective party, the Secretary of State may on written application to him by the tenant or purchaser give financial or other assistance to the applicant, if the Secretary of State thinks fit to do so:

Provided that assistance under this section shall be given only where the Secretary of State considers—

(a) that the case raises a question of principle and that it is in the public interest to give the applicant such assistance; or

(b) that there is some other special consideration.

(2) This section applies to—

(a) any proceedings under sections 61 to 84 [F192]. . .; and

(b) any proceedings to determine any question arising under or in connection with those sections other than a question as to market value for the purposes of section 62.

(3) Assistance by the Secretary of State under this section may include—

(a) giving advice;

(b) procuring or attempting to procure the settlement of the matter in dispute;

(c) arranging for the giving of advice or assistance by a solicitor or counsel;

(d) arranging for representation by a solicitor or counsel;

(e) any other form of assistance which the Secretary of State may consider appropriate.

(4) In so far as expenses are incurred by the Secretary of State in providing the applicant with assistance under this section, any sums recovered by virtue of an award of expenses, or of an agreement as to expenses, in the applicant's favour with respect to the matter in connection with which the assistance is given shall, subject to any charge or obligation for payment in priority to other debts under the [M21]Legal Aid (Scotland) Act 1986 and to any provision of that Act for payment of any sum into the Scottish Legal Aid Fund, be paid to the Secretary of State in priority to any other debts.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Any expenses incurred by the Secretary of State in providing assistance under this section shall be paid out of money provided by Parliament; and any sums received by the Secretary of State under subsection (4) shall be paid into the Consolidated Fund.

Textual Amendments

F192 Words in s. 79(2)(a) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(15)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C25 S. 79 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations

M21 1986 c.47.

80 Secretary of State may make contributions towards the cost of transfers and exchanges.

. . . . . F193

Textual Amendments

F193 S. 80 repealed by Local Government and Housing Act 1989 (c. 42, SIF 61), ss. 168(4), 194(4), **Sch. 12 Pt. II**

81 Information from landlords in relation to Secretary of State's powers.

(1) Without prejudice to section 199 of the M22Local Government (Scotland) Act 1973 (reports and returns by local authorities etc.), where it appears to the Secretary of State necessary or expedient, in relation to the exercise of his powers under sections 61 to 84 F194. . ., he may by notice in writing to a landlord require it—

(a) at such time and at such place as may be specified in the notice, to produce any document; or

(b) within such period as may be so specified or such longer period as the Secretary of State may allow, to furnish a copy of any document or supply any information.

(2) Any officer of the landlord designated in the notice for that purpose or having custody or control of the document or in a position to give that information shall, without instructions from the landlord, take all reasonable steps to ensure that the notice is complied with.

Textual Amendments

F194 Words in s. 81(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(16)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Marginal Citations

M22 1973 c.65.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F195 Preservation of right to buy on disposal to private sector landlord]

Textual Amendments

F195 S. 81A and cross heading inserted (21.2.1992) by Housing Act 1988 (c. 50, SIF 61), **s. 128**; S.I. 1992/324, **art. 2**

F196 81A . . . . . .

Textual Amendments

F196 S. 81A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(17)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

[F197 Consultation before disposal to private sector landlord]

Textual Amendments

F197 S. 81B and cross heading inserted (21.2.1992) by Housing Act 1988 (c. 50, SIF 61), **s. 135(1)(3)**; S.I. 1992/324, **art. 2**

F198 81B . . . . . .

Textual Amendments

F198 S. 81B repealed (19.12.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 13(17)**; S.S.I. 2001/467, art. 2(2), **Sch.** Table (subject to art. 3)

General

82 Interpretation of this Part.

In this Part and in sections 14, 19, **[**F199and 20**]**, except where provision is made to the contrary,

"application to purchase" has the meaning assigned to it by section 63;

"family" and any reference to membership thereof shall be construed in accordance with section 83;

"fire authority" means a fire authority for the purposes of the M23Fire Services Acts 1947 to 1959 or a joint committee constituted by virtue of section 36(4)(b) of the Fire Services Act 1947;

"heritable proprietor", in relation to a house, includes any landlord entitled under section 3 of the M24Conveyancing (Scotland) Act 1924 (disposition of the dwelling-house etc. by persons uninfeft) to grant a disposition of the house;

"housing co-operative" has the meaning assigned to it by section 22;

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"landlord" means a person who lets a house to a tenant for human habitation, and includes his successors in title;

"offer to sell" has the meaning assigned to it by section 63(2) and includes such offer to sell as is mentioned in section 71(1)(d);

"police authority" means a police authority in Scotland within the meaning of section 2(1) or 19(9)(b) of the [M25]Police (Scotland) Act 1967 or a joint police committee constituted by virtue of subsection (2)(b) of the said section 19 and any police authority constituted in England and Wales or Northern Ireland under corresponding legislation;

F200 . . .

F200 . . .

"secure tenancy" means a secure tenancy within the meaning of section 44;

"tenancy" means any agreement under which a house is made available for occupation for human habitation, and "leases", "let" and "lets" shall be construed accordingly;

"tenant" means a person who leases a house from a landlord and who derives his right therein directly from the landlord, and in the case of joint tenancies means all the tenants.

Textual Amendments

F199 Words in s. 82 substituted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(18)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F200 Definitions of
"rent to loan purchaser"
and
"rent to loan scheme"
in s. 82 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(18)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C26 S. 82 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations

M23 1947 c.41.
M24 1924 c. 27.
M25 1967 c.77.

83 Members of a person's family.

(1) A person is a member of another's family for the purposes of this Act if—

(a) he is the spouse of that person or he and that person live together as husband and wife **[**[F201]or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex**]**; or

(b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(2) For the purposes of subsection (1)(b)—

(a) a relationship by marriage shall be treated as a relationship by blood;

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Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a relationship of the half-blood shall be treated as a relationship of the whole blood;

(c) the stepchild of a person shall be treated as his child; and

[F202(ca) a person brought up or treated by another person as if the person were the child of the other person shall be treated as that person's child;**]**

(d) a child shall be treated as such whether or not his parents are married.

[F203(3) Except in subsection (1)(a), references in this Act to a person's spouse include references to another person living together with that person as husband and wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex.**]**

Textual Amendments

F201 Words in s. 83(1)(a) inserted (1.10.2001) by 2001 asp 10, **s. 108(3)(a)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in art. 3) (as amended by S.S.I. 2001/397, **art. 7(b)**)

F202 S. 83(2)(ca) inserted (1.10.2001) by 2001 asp 10, **s. 108(3)(b)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in art. 3) (as amended by S.S.I. 2001/397, **art. 7(b)**)

F203 S. 83(3) inserted (1.10.2001) by 2001 asp 10, **s. 108(3)(c)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. I** (with transitional provisions and savings in art. 3) (as amended by S.S.I. 2001/397, **art. 7(b)**)

Modifications etc. (not altering text)

C27 S. 83 applied by Housing (Scotland) Act 1988 (c. 43, SIF 61), **ss. 37(4)**, 52

C28 S. 83 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

84 Service of notices.

(1) A notice or other document which requires to be served on a person under any provision of this Part F204. . . may be given to him—

(a) by delivering it to him;

(b) by leaving it at his proper address; or

(c) by sending it by recorded delivery post to him at that address.

(2) For the purposes of this section and of section 7 of the M26Interpretation Act 1978 (references to service by post) in its application to this section, a person's proper address shall be his last known address.

Textual Amendments

F204 Words in s. 84(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(19)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Modifications etc. (not altering text)

C29 S. 84 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

Marginal Citations

M26 1978 c. 30.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F205 84A Application of right to buy to cases where landlord is lessee.

(1) Sections 61 to 84 (but not 76 or 77) F206. . . (the "right to buy" provisions) shall, with the modifications set out in this section, apply so as to provide for—

(a) the acquisition by the tenant of a house let on a **[**F207Scottish**]** secure tenancy of the landlord's interest in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that interest; and

(b) the obtaining of a loan by the tenant in that connection,

as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.

(2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord's interest in the house by way of a registered assignation of that interest and cognate expressions shall be construed accordingly.

(3) The reference in section 61(2)(b) to the landlord's being the heritable proprietor of the house shall be construed as a reference to the landlord's being the holder of the interest of the lessee under a registered lease of the house or of land which includes it.

(4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord's interest in the house and to the price to be paid for acquiring that interest.

(5) References in section 64(1) to the tenant's enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord's interest in the house.

(6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a third party shall be construed as a reference to an option being offered to have the interest acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.

(7) In this section and section 76—

"registered lease"means a lease—

(a) which is recorded in the general register of sasines; or

(b) in respect of which the interest of the lessee is registered in the Land Register of Scotland

under the Registration of Leases (Scotland) Act 1857; and

"registered assignation"means, in relation to such a lease, an assignation thereof which is so recorded or in respect of which the interest of the assignee has been so registered.**]**

Textual Amendments

F205 S. 84(A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 178(2)**

F206 Words in s. 84A(1) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(20)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F207 Word in s. 84A(1)(a) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(20)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)
C30 S. 84A modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, **Sch. 1**

PART IV

SUB-STANDARD HOUSES

The tolerable standard

85 General duty of local authority in respect of houses not meeting tolerable standard.

(1) It shall be the duty of every local authority to secure that all houses in their district which do not meet the tolerable standard are closed, demolished or brought up to the tolerable standard within such period as is reasonable in all the circumstances.

(2) In determining what period is reasonable for the purposes of subsection (1), regard shall be had to alternative housing accommodation likely to be available for any persons who may be displaced from houses as a result of any action proposed by the local authority in pursuance of that subsection.

(3) Every local authority shall from time to time cause to be made such a survey or inspection of their district as may be necessary for the performance of the duty imposed on them by subsection (1) or for the purpose of ascertaining the availability of alternative housing accommodation.

86 Definition of house meeting tolerable standard.

(1) Subject to subsection (2), a house meets the tolerable standard for the purposes of this Act if the house—

(a) is structurally stable;

(b) is substantially free from rising or penetrating damp;

(c) has satisfactory provision for natural and artificial lighting, for ventilation and for heating;

(d) has an adequate piped supply of wholesome water available within the house;

(e) has a sink provided with a satisfactory supply of both hot and cold water within the house;

(f) has a water closet available for the exclusive use of the occupants of the house and suitably located within the house;

[[F208](fa) has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house;**]**

(g) has an effective system for the drainage and disposal of foul and surface water;

(h) has satisfactory facilities for the cooking of food within the house;

(i) has satisfactory access to all external doors and outbuildings;

and any reference to a house not meeting the tolerable standard or being brought up to the tolerable standard shall be construed accordingly.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The Secretary of State may by order vary or extend or amplify the criteria set out in the foregoing subsection either generally or, after consultation with a particular local authority, in relation to the district, or any part of the district, of that authority.

(3) This section shall be without prejudice to section 114 (certain underground rooms to be treated as houses not meeting the tolerable standard).

Textual Amendments

F208 S. 86(1)(fa) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 102(1)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

87 Official representation that house does not meet tolerable standard.

(1) The proper officer of the local authority may make an official representation to the authority whenever he is of opinion that any house in their district does not meet the tolerable standard.

(2) A local authority shall as soon as may be take into consideration any official representation which has been made to them.

(3) Every representation made in pursuance of this section by the proper officer of the local authority shall be in writing.

Improvement order

88 Improvement of houses below tolerable standard outside housing action areas.

(1) Subject to subsections (2) and (3), where a local authority are satisfied that a house which is not situated in a housing action area does not meet the tolerable standard, they may by order require the owner of the house within a period of 180 days of the making of the order to improve the house by executing works—

(a) to bring it up to the tolerable standard; and

(b) to put it into a good state of repair;

and where the local authority are satisfied that the house has a future life of not less than 10 years, they may in addition require the execution of such further works of improvement as to ensure that the house will be provided with all of the standard amenities within that period.

(2) In subsection (1), reference to a house which does not meet the tolerable standard includes a reference to a house which does not have a fixed bath or shower and reference to executing works to bring it up to the tolerable standard includes reference to installing a fixed bath or shower.

(3) If the works of improvement required by an order under subsection (1) have not been completed within the said period of 180 days, the local authority may if—

(a) they consider that satisfactory progress has been made on the works, or

(b) they are given an undertaking in writing that the works will be completed by a date which they consider satisfactory,

amend the order to require the works to be completed within such further period as they may determine.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If the works of improvement have not been completed within the period of 180 days or, as the case may be, the further period determined under subsection (3), the local authority, in order that they themselves may carry out the works required by the order under subsection (1), may acquire the house by agreement or may be authorised by the Secretary of State to acquire the house compulsorily; and the [M27]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.

(5) Paragraphs (a) to (c) of section 118(1) (persons upon whom closing and demolition orders are to be served) shall apply to orders under this section as they apply to orders under that section.

(6) Section 129 (appeals) shall apply to enable an aggrieved person to appeal against an order under this section as it applies to enable an aggrieved person to appeal against a closing order.

(7) A local authority shall make an improvement grant in accordance with Part XIII towards meeting the cost of the works which are required in pursuance of this section.

(8) The owner of the house in respect of which improvement works are required under this section may apply to the local authority for a loan to meet the cost of the works in so far as they are not met by a grant made under subsection (7); and subsections (2) to (9) of section 217 shall apply for the purposes of this subsection as they apply for the purposes of subsection (1) of that section.

Marginal Citations
M27 1947 c. 42.

Housing action areas

89 Declaration of housing action areas for demolition.

(1) Where a local authority are satisfied—

(a) that the houses, or the greater part of the houses, in any area in their district do not meet the tolerable standard, and

(b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),

they may cause the area to be defined on a map and pass a draft resolution declaring the area so defined to be a housing action area for demolition, that is to say, an area which is to be dealt with in accordance with the provisions of subsection (2).

(2) A resolution passed under this section shall provide that a housing action area for demolition shall be dealt with by securing the demolition of all the buildings in the area but—

(a) such an area shall not include the site of a building unless at least part of the building consists of a house which does not meet the tolerable standard;

(b) there may be excluded from demolition any part of a building which is used for commercial purposes.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) For the purposes of this section and the following two sections, a house in respect of which a closing order has been made and not determined shall be deemed to be a house which does not meet the tolerable standard.

90 Declaration of housing action areas for improvement.

(1) Where a local authority are satisfied—

(a) that the houses, or the greater part of the houses, in any area in their district lack one or more of the standard amenities or do not meet the tolerable standard, and

(b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),

they may cause the area to be defined on a map and pass a draft resolution declaring the area so defined to be a housing action area for improvement, that is to say, an area which is to be dealt with in accordance with the provisions of that subsection.

(2) A resolution passed under this section shall provide that a housing action area for improvement shall be dealt with by securing the carrying out of such works on the houses in the area which do not meet the standard specified by the local authority under subsection (3) in respect of the area that on the completion of the works all the houses in the area will meet that standard.

(3) The standard specified by the local authority for the purpose of this section shall be that all the houses in the area—

(a) shall meet the tolerable standard; and

(b) shall be in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the houses,

and, where the local authority are satisfied that the houses in the area have a future life of not less than 10 years, they may in addition specify that all the houses in the area shall be provided with all of the standard amenities.

(4) A housing action area for improvement shall not include the site of a building unless at least part of the building consists of a house which—

(a) lacks one or more of the standard amenities, or

(b) does not meet the tolerable standard, or

(c) is not in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house.

91 Declaration of housing action areas for demolition and improvement.

(1) Where a local authority are satisfied—

(a) that the houses, or the greater part of the houses, in any area in their district lack one or more of the standard amenities or do not meet the tolerable standard, and

(b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),

they may cause the area to be defined on a map and pass a draft resolution declaring the area so defined to be a housing action area for demolition and improvement, that is to say, an area which is to be dealt with in accordance with the provisions of that subsection.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to subsection (4), a resolution passed under this section shall provide that a housing action area for demolition and improvement shall be dealt with by securing the demolition of some of the buildings in the area and by securing the carrying out of such works on those houses in the area which do not meet the standard specified by the local authority by virtue of subsection (3) in respect of the area, other than the houses in those buildings, that on the completion of the works all the houses then in the area will meet that standard.

(3) For the purposes of specifying the standard mentioned in subsection (2), the provisions of subsection (3) of section 90 shall apply as they apply for the purposes of specifying the standard mentioned in subsection (2) of that section.

(4) A local authority—

(a) shall not secure the demolition of a building in a housing action area for demolition and improvement unless the greater part of the houses in the building are below the tolerable standard, and

(b) may exclude from demolition any part of such a building which is used for commercial purposes.

(5) A housing action area for demolition and improvement shall not include the site of a building unless at least part of the building consists of a house which—

(a) lacks one or more of the standard amenities, or

(b) does not meet the tolerable standard, or

(c) is not in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house.

92 Provisions supplementary to sections 89 to 91.

(1) In considering whether to take action under sections 89 to 91 with respect to an area, a local authority shall have regard to any directions given by the Secretary of State, either generally or in respect of any particular authority or authorities, with regard to the identification of areas suitable to be declared to be housing action areas.

(2) If, on the application of a local authority, the Secretary of State is satisfied that in all the circumstances it is reasonable to do so, he may give directions as respects the waiving of the requirement in the said section 90(1)(a) or 91(1)(a) that the greater part of the houses in any area of that local authority's district lack one or more of the standard amenities or do not meet the tolerable standard.

(3) A draft resolution passed under the provisions of the said section 89, 90 or 91 shall specify the section under which it was made, be in such form and contain such information about such matters as the Secretary of State may prescribe, and the Secretary of State may prescribe different requirements for the different resolutions.

(4) A draft resolution passed under the said section 90 or 91 shall, without prejudice to the generality of the foregoing provisions of this section, contain a statement as to the standard specified by the local authority under the said section 90 or by virtue of the said section 91 and a draft resolution shall identify—

(a) where it is passed under section 89 or 91, those buildings in the area which consist of a house or houses which, in the opinion of the local authority, should be demolished;

(b) where it is passed under section 90 or 91, those houses in the area which are below the standard specified as aforesaid and which, in the opinion of the

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local authority, should be brought up to that standard and do not fall within paragraph (c);

(c) where it is passed under section 90 or 91, those houses in the area which form part of a building comprising two or more flats and which, in the opinion of the local authority—

(i) are below the standard specified for the area as aforesaid, and

(ii) require to be integrated with some other part or parts of that building;

and that other part or parts of the building shall also be identified.

93 Consent to demolition of listed buildings, rehabilitation orders and compensation.

Schedule 7 (consent to demolition of listed buildings in housing action areas, rehabilitation orders and compensation) shall have effect for the purpose of making provision in relation to houses acquired in housing action areas and subject to rehabilitation orders.

Powers of Secretary of State

94 Functions of Secretary of State, and duty of local authority to publish information.

(1) A local authority shall, as soon as may be after passing a draft resolution under section 89, 90 or 91, submit the draft resolution and a copy of the map to the Secretary of State.

(2) On receiving the draft resolution and a copy of the map, the Secretary of State shall send to the local authority a written acknowledgement of the receipt of the resolution and of the map.

(3) If it appears to the Secretary of State to be appropriate to do so he may, at any time within the period of 28 days beginning with the day on which he sent an acknowledgement under subsection (2)—

(a) direct the local authority to rescind the resolution; or

(b) notify the local authority that he does not propose to direct them to rescind the resolution; or

(c) notify the local authority that he requires a further period for consideration of the resolution and as soon as practicable thereafter direct the local authority as mentioned in paragraph (a) or, as the case may be, notify them as mentioned in paragraph (b).

(4) As soon as may be after the date on which a local authority are notified as mentioned in subsection (3)(a), the local authority shall rescind the draft resolution.

(5) Where the local authority are notified as mentioned in subsection (3)(b) or, if after the expiry of the period of 28 days mentioned in subsection (3), the local authority have received no notification from the Secretary of State, the local authority shall as soon as may be—

(a) publish in two or more newspapers circulating in the locality (of which one shall, if practicable, be a local newspaper) a notice that a draft resolution has been made and naming a place or places and times at which a copy of the resolution and a copy of the map may be inspected; and

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(b) serve on every owner, lessee and occupier of any premises to which the draft resolution relates a notice stating the effect of the resolution.

(6) Any notice for the purposes of subsection (5) shall be in such form, contain such information and be served in such manner as the Secretary of State may prescribe; and the Secretary of State may prescribe different requirements for the different resolutions.

(7) Without prejudice to the generality of the provisions of subsection (6), a notice served under subsection (5)(b) shall state that such owner, lessee and occupier may, within two months from the date of service of the notice, make representations to the local authority concerning the draft resolution or any matter contained therein.

Powers of local authority

95 Further procedure, powers of local authority on acquisition of land, compensation and agricultural holdings.

(1) Part I of Schedule 8 shall have effect in relation to the procedure to be followed after publication and service of a draft resolution.

(2) Part II of Schedule 8 shall have effect in relation to the powers of a local authority acquiring land for the purposes of this Part.

(3) Part III of Schedule 8 shall have effect in relation to compensation in respect of land acquired compulsorily.

(4) Part IV of Schedule 8 shall have effect in relation to the adjustment of relations between lessors and lessees where improvements have been carried out on agricultural holdings under this Part.

96 Power of local authority to retain houses subject to demolition for temporary occupation.

(1) A local authority, who in a resolution passed under section 89 or 91 have provided that some or all of the buildings in a housing action area should be demolished, may postpone the demolition of any such building on land purchased by or belonging to the authority within that area, being a building which is, or which contains, a house which in the opinion of the authority must be continued in use as housing accommodation for the time being.

(2) Where the demolition of a building is postponed under subsection (1), the authority shall carry out such works as may in their opinion from time to time be required for rendering or keeping such house capable of being continued in use as housing accommodation pending its demolition.

(3) In respect of any house retained by a local authority under this section for use for housing purposes, the authority shall have the same powers and duties as they have in respect of houses provided under Part I.

97 Local authority may control occupation of houses in housing action area.

(1) Subject to subsection (3) of this section, a local authority may—

(a) as soon as practicable after they receive notification under section 94(3)(b), or

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(b) if after the expiry of the period of 28 days mentioned in section 94(3) they have received no notification from the Secretary of State;

make an order in the prescribed form prohibiting the occupation of the houses in the area which have been identified in accordance with section 92(4)(a) and (c) except with the consent of the authority.

(2) Within 28 days of making an order under this section, the local authority shall serve a notice in the prescribed form in respect of every such house in the housing action area—

(a) upon the person having control of the house, and

(b) upon any other person who is an owner or occupier of the house,

stating that the order has been made and indicating the effect of the order.

(3) An order made under this section shall not prohibit the occupation of a house in the area by a person occupying it on the date of the service of the notice in respect of the house under subsection (2).

(4) If any person, knowing that an order has been made under this section, occupies or permits to be occupied a house after the date of the service of the notice in respect of the house under subsection (2) in contravention of the order, he shall be guilty of an offence and shall be liable on summary conviction—

(a) to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and

(b) in the case of a continuing offence to a further fine of £5 for every day or part of a day which he occupies the house, or permits it to be occupied, after conviction.

(5) Where an owner or a person having control of a house in respect of which an order under this section is served considers that it is unreasonable in all the circumstances of the case that the order should continue to apply to the house, he may apply to the local authority to revoke the order in respect of the house.

(6) Where an applicant for a revocation under subsection (5) is aggrieved by the refusal of the local authority to revoke the order, he may appeal to the sheriff by giving notice of appeal within 21 days of the date of the refusal.

(7) An order made under this section shall cease to have effect in relation to any house affected by any of the following events, that is to say—

(a) on the date on which the local authority revoke an order under subsection (5);

(b) on the date of the passing of a final resolution under paragraph 1 of Schedule 8 identifying a house in accordance with that paragraph as read with section 92(4)(b);

(c) on the date of the rescinding of a draft resolution under paragraph 1 of Schedule 8;

(d) in the case where the Secretary of State, in refusing to confirm an order for compulsory purchase submitted to him under paragraph 5 of Schedule 8, directs that any order made under this section shall cease to apply either generally or in respect of individual houses, on the date of that direction;

(e) in the case where the Secretary of State, in modifying in accordance with the provisions of paragraph 5(3)(e) of Schedule 8 an order for compulsory purchase submitted to him under that paragraph, directs that any order made under this section shall cease to apply either generally or in respect of individual houses, on the date of that direction.

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98 Obligation of local authorities in relation to rehousing in housing action areas.

Where a person is to be displaced as a result of implementation of the provisions of this Part, and where a local authority are under a duty by virtue of section 36 of the [M28]Land Compensation (Scotland) Act 1973 to rehouse him, the authority shall, if so requested by that person and in so far as practicable, secure that he will be provided with suitable alternative accommodation within a reasonable distance from the locality of the house from which he is to be displaced.

Marginal Citations
M28 1973 c. 56.

Landlords and tenants in housing action areas

99 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(a).

(1) Where—

(a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the building of which the house consists or forms part in accordance with that paragraph as read with section 92(4)(a);

(b) the owner of the house is willing to secure the demolition of the building of which the house consists or forms part; and

(c) the owner cannot obtain vacant possession of the house by agreement with the tenant thereof,

then, whether or not the tenancy of that house has been terminated, the owner may apply to the sheriff for an order for possession of that house.

(2) Any such order shall require the tenant to vacate the house within such period, not being less than 4 weeks nor more than 6 weeks from the date of the order, as the sheriff may determine and, where any tenancy of that house has not previously been terminated, such order shall have the effect of terminating that tenancy as from the date of the order.

(3) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of adjustment of rent or compensation for any improvements carried out by the tenant) as the sheriff may think just and equitable, having regard to the respective rights, obligations and liabilities of the parties and to all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

100 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(c).

(1) Where—

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(a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8 which identifies the house in accordance with that paragraph as read with section 92(4)(c);

(b) the owner of the house is also the owner of the other part or parts of the building of which the house forms part which have been identified as aforesaid as requiring to be integrated with that house, in whole or in part;

(c) the owner of the house is willing to carry out the necessary works of integration as aforesaid; and

(d) the owner cannot obtain vacant possession of the house or of the said other part or parts of the building by agreement with any tenant thereof,

then, whether or not the tenancy of that house or of the said other part or parts of the building has been terminated, the owner may apply to the sheriff for an order for possession of that house or of the said other part or parts of the building.

(2) The provisions of section 99(2) and (3) shall apply to an order made under this section as they apply to an order made under that section but, without prejudice to the generality of the provisions of those subsections, the sheriff shall, before imposing any such conditions as are referred to in section 99(3), have regard as to whether the owner has offered to any tenant, who will be required to vacate the house by an order under this section, a tenancy of a house which will include in whole or in part that house.

101 Application to sheriff for possession where house is identified in accordance with paragraph 1 of Schedule 8 as read with section 92(4)(b).

(1) Where—

(a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the house in accordance with that paragraph as read with section 92(4)(b);

(b) the owner of the house is willing to carry out the necessary works to bring the house up to the standard specified for the area by the local authority under section 90(3) or, as the case may be, by virtue of section 91(3);

(c) those works cannot be carried out without the consent of the tenant of that house or without the house being vacated temporarily; and

(d) the tenant refuses to consent to the carrying out of those works or to vacate the house,

then the owner may apply to the sheriff for an order authorising the owner to enter the house and carry out those works, and, on any such application, the sheriff may, if he considers that it is necessary for the house to be vacated to enable the works to be carried out, order the tenant to vacate the house for such period, beginning not less than 4 weeks from the date of the order, as the sheriff may determine.

(2) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of rent payable under the tenancy during the carrying out of the works and as to the period during which the house is to be vacated) as the sheriff may think just and equitable, having regard to all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

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102 Procedure; and application of s.103(1) of Rent (Scotland) Act 1984.

Any application made to the sheriff under this Part shall be made by way of summary application and the provisions of section 103(1) of the [M29]Rent (Scotland) Act 1984 shall apply to any such application as they apply to an application made under any of the provisions referred to in subsection (2) of that section.

Marginal Citations
M29 1984 c. 58.

103 Certain provisions of Rent (Scotland) Act 1984 not to apply.

Nothing in the Rent (Scotland) Act 1984 **[**[F209]or in Part II of the Housing (Scotland) Act 1988**]** restricting the power of a court to make an order for possession of a dwelling-house shall apply to any application made to the sheriff or to any order made by the sheriff under this Part.

Textual Amendments
F209 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 12**

104 Effect of refusal to make order on validity of resolution.

Where, in relation to any application under this Part, the sheriff refuses to make the order sought, that refusal shall not affect the validity of any resolution passed by the local authority under this Part or any rights or obligations of the local authority under this Part or under any other enactment relating to housing.

Miscellaneous

105 Exclusion of houses controlled by Crown.

(1) No order under section 88 nor any notice of a final resolution under Part I of Schedule 8 may be served in respect of a house in which there is a Crown interest except with the consent of the appropriate authority and, where a notice of a final resolution is served with the consent of the appropriate authority, this Part shall apply in relation to the house as it applies in relation to a house in which there is no such interest.

(2) If, after a notice of a final resolution as aforesaid has been served in respect of any house in which there is a Crown interest, the appropriate authority becomes the person having control of the house, any such notice shall cease to have effect.

(3) In this section, "Crown interest" means an interest belonging to Her Majesty in right of the Crown or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, and "the appropriate authority"—

(a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

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(b) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department,

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

106 Power of local authority to arrange for the execution of works of improvement by agreement with the owner.

A local authority may by agreement with an owner of a house at his expense execute, or arrange for the execution of, any works of improvement or of repair to which this Part or Part V or Part XIII applies which the local authority and the owner agree are necessary or desirable.

107 Conditions may be attached to sale of below-standard local authority houses.

Where a house on land acquired or appropriated by a local authority for the purposes of Part I lacks one or more of the standard amenities or does not meet the tolerable standard, the local authority may make the sale by them of that house conditional on the purchaser providing the house with the standard amenities which it lacks or bringing the house up to the tolerable standard.

PART V

REPAIR OF HOUSES

Repair notices

108 Power of local authority to secure repair of house in state of serious disrepair.

(1) Where a local authority are satisfied that any house in their district is in a state of serious disrepair, they may serve upon the person having control of the house a repair notice.

(2) A repair notice shall—

(a) require that person to execute the works necessary to rectify such defects as are specified in the notice within such reasonable time, being not less than 21 days, as may be specified in the notice, and

(b) state that, in the opinion of the local authority, the rectification of those defects will bring the house up to such a standard of repair as is reasonable having regard to the age, character and location, and disregarding the internal decorative repair, of the house.

(3) Subject to subsection (5), if a notice under subsection (1) is not complied with, the local authority—

(a) may themselves execute the works necessary to rectify the defects specified in the notice or in the notice as varied by the sheriff, as the case may be, and

(b) may in addition execute any further works which are found to be necessary for the purpose of bringing the house up to the standard of repair referred to

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in subsection (2)(b), but which could not reasonably have been ascertained to be required prior to the service of the notice.

(4) Any question as to whether further works are necessary or could not have been reasonably ascertained under subsection (3)(b) shall be determined by the sheriff, whose decision shall be final.

(5) The local authority shall not execute any works under subsection (3) until—

(a) the expiration of the time specified in the repair notice; or

(b) if an appeal against the notice has been made and the notice confirmed with or without variation by the sheriff, the expiration of 21 days from the date of the determination of the appeal or such longer period as the sheriff may order.

(6) Any action taken under this section or under section 109 shall be without prejudice to any other powers of the local authority or any remedy available to the tenant of a house against his landlord under any enactment or rule of law.

(7) Where a local authority are of the opinion that a house in their district is in need of repair although not in a state of serious disrepair and that it is likely to deteriorate rapidly, or to cause material damage to another house, if nothing is done to repair it, they may treat it as being in a state of serious disrepair for the purposes of this Part.

(8) In this Part, "house" includes a building which comprises or includes—

(a) a house or houses; or

(b) a house or houses and other premises.

109 Recovery by local authority of expenses under s.108.

(1) Subject to the provisions of this section, any expenses incurred by a local authority under section 108(3), together with interest from the date when a demand for the expenses is served until payment, may be recovered by the authority from—

(a) the person having control of the house, or

(b) if he receives the rent of the house as trustee, tutor, curator, factor or agent for or of some other person, from him or from that other person, or in part from him and in part from that other person.

(2) A local authority may apportion any such expenses among the persons having control of the houses and other premises comprised in the building.

(3) The local authority may by order declare any such expenses to be payable by weekly, monthly, half-yearly or annual instalments within a period not exceeding 30 years with interest from the date of the service of the demand until the whole amount is paid, and any such instalments and interest, or any part thereof, may be recovered from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.

(4) Any interest payable under subsection (1) or subsection (3) of this section shall be at such reasonable rate as the local authority may determine.

(5) The provisions of Schedule 9 shall have effect for the purpose of enabling a local authority to make a charging order in respect of any expenses incurred by them under section 108(3) in relation to a house or building.

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Modifications etc. (not altering text)
C31 S. 109 modified (27.8.1993) by 1993 c. 11, **ss. 62(2)(c)**, 68(2).

110 Recovery by lessee of proportion of expenses incurred in repairing house.

(1) Where the tenant of a house or his agent has—

(a) incurred expenditure in complying with a repair notice, or in paying the expenses of a local authority who has carried out the works specified in such a notice, and

(b) intimated service of the notice and its purport to the landlord under the lease in writing within 14 days after such service,

the tenant or the landlord may, in the absence of any agreement between them, apply to the sheriff to determine what part, if any, of the expenditure is payable by the landlord to the tenant.

(2) In determining an application under subsection (1), the sheriff shall make such determination as he thinks fit having regard to—

(a) the obligations of the landlord and the tenant under the lease with respect to the repair of the house;

(b) the length of the unexpired term of the lease;

(c) the rent payable under the lease; and

(d) all other relevant circumstances.

(3) Where the sheriff makes an order for payment by the landlord to the tenant, and the landlord in question is himself a tenant of the house under another lease, he shall be treated for the purposes of this section as being a tenant who has incurred expenditure under subsection (1)(a).

(4) In this section "lease" includes a sublease and any tenancy, and the expressions "landlord" and "tenant" shall be construed accordingly.

Appeals etc.

111 Appeals under Part V.

(1) Any person aggrieved by—

(a) a repair notice,

(b) a demand for the recovery of expenses incurred by a local authority in executing works, specified in such a notice,

(c) an order made by a local authority with respect to any such expenses,

(d) a charging order made under Schedule 9,

may appeal to the sheriff by giving notice of appeal within 21 days after the date of the service of the notice, demand or order, as the case may be; and no proceedings shall be taken by the local authority to enforce any notice, demand or order while an appeal against it is pending.

(2) On an appeal under paragraph (b), (c) or (d) of subsection (1), no question shall be raised which might have been raised on an appeal against the original notice requiring the execution of the works.

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Modifications etc. (not altering text)
C32 S. 111 applied (27.8.1993) by 1993 c. 11, ss. 24(4)(b), 66(1), 68(2), **Sch. 3 para. 2** (with ss. 41, 42(4)(5), 43(5), 44(6)).

112 Date of operation of notices, demands and orders subject to appeal.

Any notice, demand or order against which an appeal might be brought to the sheriff under section 111 shall—

(a) if no such appeal is brought, become operative on the expiration of 21 days after the date of the service of the notice, demand or order, as the case may be, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and

(b) if such an appeal is brought shall, if and so far as it is confirmed by the sheriff, become operative as from the date of the determination of the appeal.

Landlord and tenant

113 Obligations to repair.

Schedule 10 shall have effect in relation to the landlord's obligation under certain leases to repair the subjects let.

PART VI

CLOSING AND DEMOLITION ORDERS

Powers of local authority

114 Closing order.

(1) Where a local authority, on consideration of an official representation or a report by the proper officer or other information in their possession, are satisfied that any house does not meet the tolerable standard and that it ought to be demolished and—

(a) the house forms only part of a building, and

(b) the building does not comprise only houses which do not meet the tolerable standard,

the local authority may make a closing order prohibiting the use of the house for human habitation.

(2) A closing order shall have effect from such date as may be specified in the order, not being less than 28 days from the date on which it comes into operation.

(3) In this section, "house" includes any room habitually used as a sleeping place, the surface of the floor of which is more than 3 feet below the surface of the part of the street adjoining or nearest to the room (an "underground room").

(4) An underground room does not meet the tolerable standard for the purpose of this section if—

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(a) it is not an average of 7 feet in height from floor to ceiling, or

(b) it does not comply with such regulations as the local authority may make for securing the proper ventilation and lighting of such rooms and the protection thereof against dampness, effluvia or exhalation.

(5) If a local authority, after being required to do so by the Secretary of State, fail to make regulations under subsection (4)(b), the Secretary of State may himself make regulations which shall **[**F210have**]** effect as if they had been made by the authority under that subsection.

Textual Amendments

F210 Word inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 3**

115 Demolition order.

Where a local authority, on consideration of an official representation or a report by the proper officer or other information in their possession, are satisfied that any building comprises only a house which does not meet, or houses which do not meet, the tolerable standard and that the house or, as the case may be, houses, ought to be demolished, they may, subject to section 119, make a demolition order requiring—

(a) that the building shall be vacated within such period as may be specified in the order, not being less than 28 days from the date on which the order comes into operation, and

(b) that the building shall be demolished within 6 weeks after the expiration of that period or, if the building is not vacated before the expiration of the period, within 6 weeks after the date on which it is vacated.

116 Revocation of closing and demolition order.

If in the case of a house in respect of which a closing order has been made or a building in respect of which a demolition order has been made the local authority are satisfied, on an application made by any owner of the house or building, or any person appearing to the authority to have reasonable cause for making the application, that the house has, or, as the case may be, the house or houses comprised in the building have, been brought up to the tolerable standard, they shall make an order revoking the closing order or, as the case may be, the demolition order.

117 Undertakings to bring up to tolerable standard and suspension order.

(1) Where a closing order or a demolition order has been made in respect of a house or building and not revoked, any owner of the house or building, or any person holding a heritable security over it, may give to the local authority, within a period of 21 days from the date of service of the order or such longer period therefrom as the authority may, either during or after the expiry of the 21 days, determine to be appropriate, an undertaking in writing—

(a) that he will within a specified period carry out such works as will, in the opinion of the local authority, bring the house or, as the case may be, all the houses in the building, up to the tolerable standard; or

(b) in the case of a building in respect of which a demolition order has been made, that no house in the building will be used for human habitation (unless at any

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time all the houses therein are brought up to the tolerable standard and the local authority agree that they have been so brought).

(2) If an undertaking is so given the local authority shall as soon as may be either—

(a) accept the undertaking and make in respect of it a suspension order suspending the closing order or, as the case may be, the demolition order, or

(b) reject the undertaking and serve on the person who gave the undertaking notice that they have done so.

(3) A suspension order shall cease to have effect on the expiry of one year from the date of its making unless renewed, at the discretion of the local authority, at the expiry of that year; and this subsection shall apply to any suspension order so renewed as it applies to the original order.

(4) A suspension order made or renewed by a local authority may be revoked by them at any time by order if they have reasonable cause to believe that there has been a breach of the undertaking in respect of which it was made or renewed.

(5) Any period—

(a) between the service of the closing order or demolition order and the service of a suspension order or a notice of rejection under subsection (2), and

(b) while a suspension order is in force,

shall be left out of account in reckoning in relation to the closing order or demolition order in question the period of 21 days referred to in sections 129(1) and 130.

118 Service.

(1) Any order made or notice issued under sections 114 to 117 in respect of a house or building shall be served—

(a) upon the person having control of the house or, as the case may be, the house or houses comprised in the building;

(b) upon any other person who is an owner of the house or, as the case may be, any of those houses;

(c) upon any person holding a heritable security over the house or, as the case may be, any of those houses, unless it appears to the local authority, after exercising their powers under section 325, that there is no such person; and

(d) where an application has been made in relation to the house, or, as the case may be, those houses, under section 116, by a person upon whom the order or notice is not required to be served apart from this paragraph, upon that person.

(2) In subsection (1), references to an owner of, and to any person holding a heritable security over, a building shall be construed as including respectively references to an owner of, and to any person holding a heritable security over, any part of the building.

119 Listed buildings and houses subject to building preservation orders.

(1) Where apart from this section a local authority would be empowered to make a demolition order under this Part with respect to a building—

(a) in relation to which a building preservation notice served under **[**F211sections 3 to 5 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**]** is in force, or

(b) which is a listed building within the meaning of **[**F211section 1(4)**]** of that Act,

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they shall not make a demolition order but instead may make a closing order or closing orders under this section in respect of the house or houses comprised in the building.

(2) Where a building to which a demolition order made under this Part by a local authority applies (whether or not that order has become operative) becomes—

(a) subject to a building preservation notice served under **[**F212the said sections 3 to 5**]**, or

(b) a listed building within the meaning of **[**F212the said section 1(4)**]**,

the local authority shall revoke the demolition order and may make a closing order or closing orders in respect of the house or houses comprised in the building.

(3) The provisions of sections 114(1), 116, 117 and 118 shall, subject to any necessary modifications, have effect in relation to a closing order made under this section as they have effect in relation to a closing order made under those sections.

Textual Amendments

F211 Words in s. 119(1)(a)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 40(2)(a)**

F212 Words in s. 119(2)(a)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 40(2)(b)**

120 Powers of local authority in relation to building consisting wholly of closed houses.

(1) Where a building consists wholly of houses with respect to which closing orders have become operative and none of those orders has been revoked or is subject to a suspension order, then—

(a) the local authority may revoke the closing orders and make a demolition order under section 115 in respect of the whole building, but section 117 shall not apply to the order; or

(b) the local authority may purchase the land by agreement or may, subject to the provisions of this section, be authorised by the Secretary of State to purchase it compulsorily.

(2) The provisions of the M30Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land under subsection (1)(b) as if that subsection had been in force immediately before the commencement of that Act.

(3) The compensation to be paid for land purchased compulsorily under this section shall be assessed by the M31Lands Tribunal in accordance with Land Compensation (Scotland) Act 1963 subject, however, to the provisions of subsections (4) and (5).

(4) The compensation payable under this section shall not (except by virtue of paragraph 3 of Schedule 2 to the said Act of 1963) exceed the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the district.

(5) The references in subsections (3) and (4) to compensation are references to the compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection.

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(6) Where a local authority acquire land by virtue of this section, the provisions of paragraph 8(b) of Schedule 8 shall apply as if the land were in a housing action area and had been purchased for the purpose of demolishing the buildings thereon.

Marginal Citations
M30 1947 c. 42.
M31 1963 c. 51.

121 Local authority may acquire and repair house or building liable to closing or demolition order.

(1) If, in relation to any house or building to which this section applies, it appears to a local authority that having regard to—
(a) its existing condition;
(b) the needs of the area for the provision of further housing accommodation;
the house or building must remain in use as housing accommodation, they may purchase it.

(2) This section applies to any house or building in respect of which the local authority may make—
(a) a closing order under section 114; or
(b) a demolition order under section 115 or 120(1).

(3) Where a local authority determine to purchase a house or building under subsection (1), they shall serve notice of the determination on every person on whom they would be required under section 118(1) to serve a closing order or a demolition order made in respect of the house or building, and at any time after that notice comes into operation the local authority may purchase the house or building by agreement or may be authorised by the Secretary of State to purchase it compulsorily.

(4) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of a house or building under this section as if this section had been in force immediately before the commencement of that Act.

(5) The compensation to be paid for any house or building purchased compulsorily under this section shall be assessed by the Lands Tribunal in accordance with the [M32]Land Compensation (Scotland) Act 1963 subject, however, to the provisions of subsections (6) and (7).

(6) The compensation payable under this section shall not (except by virtue of paragraph 3 of Schedule 2 to the said Act of 1963) exceed the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the area.

(7) The references in subsections (5) and (6) to compensation are references to the compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection.

(8) A local authority by whom a house or building is purchased under this section shall carry out such works as may in the opinion of the authority from time to time be

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required for rendering or keeping it capable of being continued in use as housing accommodation.

(9) In respect of any house purchased by a local authority under this section, the authority shall have the like powers and duties as they have in respect of houses provided under Part I.

Marginal Citations
M32 1963 c. 51.

Offences

122 Penalty for use of premises in contravention of closing order or of undertaking.

(1) If any person—

(a) knowing that a closing order made under section 114 or section 119 has become operative and applies to any premises, uses those premises or permits those premises to be used for human habitation without having obtained the consent of the local authority to the use of the premises for that purpose; or

(b) knowing that an undertaking that any premises shall not be used for human habitation has been accepted by the local authority under this Part, uses those premises for human habitation or permits them to be so used,

he shall be guilty of an offence.

(2) Any person guilty of an offence under subsection (1) shall be liable on summary conviction—

(a) to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and

(b) in the case of a continuing offence, to a further fine of £5 for every day or part of a day on which he so uses those premises, or permits them to be so used, after conviction.

Powers of local authority following demolition order

123 Procedure where demolition order made.

(1) When a demolition order has become operative, the owner of the building to which it applies shall demolish the building within the time limited in that behalf by the order; and, if the building is not demolished within that time, the local authority may enter and demolish the building and sell the material thereof.

(2) Any expenses incurred by a local authority under subsection (1), after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the building, and any surplus in the hands of the authority shall be paid by them to the owner of the building.

(3) In the application of this section to a demolition order made in respect of a building comprising two or more parts separately owned—

(a) any reference to the owner of the building shall be construed as a reference to the owners of the several parts comprised in the building;

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(b) without prejudice to the powers of the local authority under subsection (1), the duty imposed by that subsection on the owners of the several parts comprised in the building to demolish the building shall be regarded as a duty to arrange jointly for the demolition of the building; and

(c) subsection (2) shall have effect subject to the proviso that any sum recoverable or payable by the local authority under that subsection shall be recoverable from or payable to the several owners in such proportions as the owners may agree or, failing agreement, as shall be determined by an arbiter, nominated by the owners or, failing such nomination, nominated on the application of the authority or any of the owners, by the sheriff.

124 Power of local authority to purchase site of demolished building where expenses of demolition cannot be recovered.

(1) Where a local authority have demolished a building in exercise of the powers conferred on them by section 123 and the expenses thereby incurred by them cannot be recovered by reason of the fact that the owner of the building cannot be found, the authority may be authorised by the Secretary of State to purchase compulsorily the site of the building, including the area of any yard, garden or pertinent belonging to the building or usually enjoyed therewith.

(2) The provisions of the [M33]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to a compulsory purchase of land under subsection (1) as if that subsection had been in force immediately before the commencement of that Act.

(3) A local authority shall be entitled to deduct from the compensation payable on the compulsory purchase of the site of a building under this section the amount of the expenses referred to in subsection (1) so far as not otherwise recovered.

(4) A local authority shall deal with any land purchased by them under this section by sale, letting or appropriation in accordance with the provisions of paragraph 8 of Schedule 8.

Marginal Citations
M33 1947 c. 42.

Demolition of obstructive buildings

125 Local authority may by resolution require demolition of obstructive building.

(1) A local authority may serve upon the owner or owners of a building which appears to the authority to be an obstructive building notice of the time (being some time not less than one month after the service of the notice) and place at which the question of demolishing the building will be considered by the authority.

(2) Where a local authority serve a notice under subsection (1) on an owner of a building, they shall at the same time require him to furnish within two weeks thereafter a written statement specifying the name and address of the superior of whom such owner holds, and of any person holding a heritable security over the owner's interest in the building, and the authority shall as soon as may be after receipt of such statement serve on

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any person whose name is included therein, notice of the time and place at which the question of demolishing the building will be considered.

(3) Any person on whom a notice is served under subsection (1) or (2) shall be entitled to be heard when the question of demolishing the building to which the notice relates is taken into consideration.

(4) If after so taking the matter into consideration the local authority are satisfied that the building is an obstructive building and that the building or any part thereof ought to be demolished, they may pass a resolution that the building or that part thereof shall be demolished and may, by such resolution, require that the building, or such part thereof as is required to be vacated for the purposes of the demolition, shall be vacated within two months from the date on which the resolution becomes operative, and, if they do so, shall serve a copy of the resolution upon the owner or owners of the building.

(5) If any person fails to give to the local authority any information required by them under subsection (2) or knowingly makes any mis-statement with reference thereto, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(6) In this section, the expression "obstructive building" means a building which, by reason only of its contact with, or proximity to, other buildings, is injurious or dangerous to health.

(7) This section shall not apply to a building which is the property of public undertakers, unless it is used for the purposes of a dwelling, showroom or office, or which is the property of a local authority.

Modifications etc. (not altering text)

C33 S. 125 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(8), Sch. 17 paras. 33, **35(1)**

C34 S. 125(7) extended (1.3.1996) by 1995 c. 45, ss. 16(1), 18(2), **Sch. 4 para. 2(9)**; S.I. 1996/218, **art. 2**

126 Effect of resolution for demolition of obstructive building.

(1) Subject to the provisions of this section, where a local authority have made a resolution and required a building to be vacated under section 125(4), they shall be bound to purchase the building if the owner offers to sell it to them.

(2) On purchasing a building under this section, the local authority shall demolish it as soon as possible after they obtain possession of it.

(3) A local authority shall only be bound to purchase the building if—

(a) the offer is made before the expiry of the period within which the resolution requires it to be vacated; and

(b) the acquisition of the owner's interest would, apart from section 125, enable them to demolish the building.

(4) The offer to sell shall be at a price to be assessed by the Lands Tribunal in accordance with the [M34]Land Compensation (Scotland) Act 1963, as modified by Schedule 1, as if it were compensation for compulsory purchase.

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(5) If no such offer as is mentioned in subsection (1) is made before the expiry of the said period, the local authority shall, as soon as may be thereafter, carry out the demolition and shall have the like right to sell the materials rendered available thereby as if they had purchased the building.

(6) Where the demolition of a building is carried out under subsection (5), compensation shall be paid by the local authority to the owner in respect of loss arising from the demolition, and that compensation shall, notwithstanding that no land is acquired compulsorily by the authority, be assessed by the Lands Tribunal in accordance with the said Act of 1963, as modified by Schedule I, except that paragraphs (2) to (6) of section 12 of the said Act of 1963 shall not apply and that paragraph (1) of the said section 12 shall have effect with the substitution, for the reference to acquisition, of a reference to demolition.

Marginal Citations
M34 1963 c.51.

Possession

127 Recovery of possession of building or house subject to closing order, etc.

(1) Where a closing order, a demolition order, or a resolution passed under section 125 has become operative, the local authority shall serve on the occupier of any building or house or any part thereof to which the order or resolution relates a notice—

(a) stating the effect of the order or resolution, and

(b) specifying the date by which the order or resolution requires the building or house to be vacated, and

(c) requiring the occupier to remove from the building or house before the said date or before the expiration of 28 days from the service of the notice, whichever may be the later.

(2) If at any time after the date on which a notice under subsection (1) requires a building or house to be vacated, any person is in occupation of the building or house or of any part of it, the local authority or any owner of the building or house may make a summary application for removal and ejection to the sheriff.

(3) The sheriff may, after requiring service of such additional notice (if any) as he thinks fit, grant warrant for ejection giving vacant possession of the building or house or of the part of it in question to the authority or owner, as the case may be, within such period, not being less than 2 weeks nor more than 4 weeks, as the sheriff may determine.

(4) Subject to subsection (5), any expenses incurred by a local authority under this section in obtaining possession of any building or house or part thereof may be recovered by them from the owner of the building or house.

(5) Subsection (4) does not apply to expenses incurred in obtaining possession of—

(a) premises to which a resolution passed under section 125 applies; or

(b) any other premises unless the owner has failed to make within a reasonable time a summary application for removal and ejection to the sheriff or, having

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made such an application, has failed to take all steps necessary to have the application disposed of within a reasonable time.

(6) Any person who, knowing that a demolition order or a resolution passed under section 125 has become operative and applies to any building or house, enters into occupation of that building or house or any part of it after the date by which the order or resolution requires that building or house to be vacated, or permits any other person to enter into such occupation after that date, shall be guilty of an offence and shall be liable on summary conviction—

(a) to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and

(b) in the case of a continuing offence to a further fine of £5 for every day, or part of a day, on which the occupation continues after conviction.

128 Recovery of possession of house to which Rent Act applies.

Nothing in the [M35]Rent (Scotland) Act 1984 **[**[F213]or in Part II of the Housing (Scotland) Act 1988**]** shall be deemed to affect the provisions of this Act relating to obtaining possession of a house with respect to which a closing order, or a demolition order has been made or to which a resolution passed under section 125 applies, or to prevent possession being obtained—

(a) of any house possession of which is required for the purpose of enabling a local authority to exercise their powers under any enactment relating to housing;

(b) of any house possession of which is required for the purpose of securing compliance with any byelaws made for the prevention of overcrowding;

(c) of any premises by any owner in a case where an undertaking has been given under this Part that those premises shall not be used for human habitation.

Textual Amendments

F213 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 13**

Marginal Citations

M35 1984 c. 58.

Appeals and date of operation of certain notices, etc.

129 Appeals.

(1) Subject to the provisions of this section and subsections (2) **[**[F214]to (7)**]** of section 324 any person aggrieved by—

(a) a closing order made under section 114 or section 119 or a refusal to determine such a closing order;

(b) a demolition order or a refusal to determine a demolition order or a resolution under section 125;

(c) a notice of determination to purchase served under section 121(3);

(d) a notice that no payment falls to be made under section 304(1) served under subsection (2) of that section;

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may appeal to the sheriff by giving notice of appeal within 21 days after the date of the service of the notice, or order or resolution, or after the refusal, as the case may be; and no proceedings shall be taken by the local authority to enforce any notice, or order while an appeal against it is pending.

(2) No appeal shall lie under paragraphs (a), (b) or (c) of subsection (1) at the instance of a person who is in occupation of the premises to which the order or resolution or notice relates under a lease or agreement the unexpired term of which does not exceed 6 months.

(3) On an appeal under paragraph (a) or paragraph (b) of subsection (1), the sheriff may consider any undertaking such as is specified in relation to a closing order or a demolition order, as the case may be, in section 117 and, if he thinks it proper to do so having regard to the undertaking, may direct the local authority to make a suspension order under that section.

Textual Amendments

F214 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 4**

130 Date of operation of notices, orders or resolutions subject to appeal.

(1) Any notice, or order or resolution against which an appeal might be brought to the sheriff under section 129 shall, if no such appeal is brought, become operative on the expiration of 21 days after the date of the service of the notice, or order or resolution, as the case may be, and shall be final and conclusive as to any matters which could have been raised on such an appeal.

(2) Any such notice or order or resolution against which an appeal is brought shall, if and so far as it is confirmed by the sheriff, become operative as from the date of the determination of the appeal.

Charging orders

131 Power of local authority to make charging order in favour of themselves.

(1) Where a local authority have themselves incurred expenses under section 123 in the demolition of a building, they may make a charging order in favour of themselves in respect of such expenses.

(2) The provisions of Schedule 9 shall, subject to any necessary modifications and to the provisions of subsection (3), apply to a charging order so made.

(3) A charging order so made shall be made in relation to the site of the building demolished, including the area of any yard, garden or pertinent belonging to the building or usually enjoyed therewith.

Modifications etc. (not altering text)

C35 S. 131 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).

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Supplementary

132 Protection of superiors and owners.

(1) If the superior of any lands and heritages gives notice to the local authority of his right of superiority, the authority shall give to him notice of any proceedings taken by them in pursuance of this Part in relation to the lands and heritages.

(2) Nothing in this Part shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance or non-performance of any contract or obligation entered into by a tenant or lessee with reference to any house in respect of which an order or resolution is made by a local authority under this Part; and if any owner is obliged to take possession of any house in order to comply with any such order or resolution the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which may have occurred before he so took possession.

133 Interpretation.

(1) In this Part (except sections 125, 126 and 132) any reference to a house, or to a building, includes a reference to premises occupied by agricultural workers although such premises are used for sleeping purposes only.

(2) For the purposes of this Part a crofter or a landholder shall be deemed to be the owner of any house on his croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Crofters (Scotland) Acts 1955 and 1961 or, as the case may be, the Small Landholders (Scotland) Acts 1886 to 1931, as for an improvement.

Saving

134 Saving for telecommunication and gas apparatus.

Paragraph 23 of Schedule 2 to the [M36]Telecommunications Act 1984 (code for cases where works involve the alteration of apparatus), as applied by paragraph 2(7) of Schedule 7 to the [M37]Gas Act 1986 to gas apparatus, shall apply to a local authority for the purposes of any works which they are authorised to execute under this Part.

Marginal Citations

M36 1984 c.12.

M37 1986 c.44.

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PART VII

OVERCROWDING

Definition of overcrowding

135 Definition of overcrowding.

—A house is overcrowded for the purposes of this Part when the number of persons sleeping in the house is such as to contravene—

(a) the standard specified in section 136 (the room standard), or

(b) the standard specified in section 137 (the space standard).

136 The room standard.

(1) The room standard is contravened when the number of persons sleeping in a house and the number of rooms available as sleeping accommodation is such that two persons of opposite sexes who are not living together as husband and wife must sleep in the same room.

(2) For this purpose—

(a) children under the age of 10 shall be left out of account, and

(b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a bedroom or as a living room.

137 The space standard.

(1) The space standard is contravened when the number of persons sleeping in a house is in excess of the permitted number, having regard to the number and floor area of the rooms of the house available as sleeping accommodation.

(2) For this purpose—

(a) no account shall be taken of a child under the age of one and a child aged one or over but under 10 shall be reckoned as one-half of a unit, and

(b) a room is available as sleeping accommodation if it is of a type normally used in the locality either as a living room or as a bedroom.

(3) The permitted number of persons in relation to a house is whichever is the less of—

(a) the number specified in Table I in relation to the number of rooms in the house available as sleeping accommodation, and

(b) the aggregate for all such rooms in the house of the numbers specified in column 2 of Table II in relation to each room of the floor area specified in column 1.

No account shall be taken for the purposes of either Table of a room having a floor area of less than 50 square feet.

TABLE I

Number of rooms	*Number of persons*
1	2

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2	3
3	5
4	7½
5 or more	2 for each room

TABLE II

Floor area of room	**Number of persons**
110 sq. ft. or more	2
90 sq. ft. or more but less than 110 sq. ft.	1½
70 sq. ft. or more but less than 90 sq. ft.	1
50 sq. ft. or more but less than 70 sq. ft.	½

(4) The Secretary of State may prescribe the manner in which the floor area of a room is to be ascertained for the purposes of this section; and the regulations may provide for the exclusion from computation, or the bringing into computation at a reduced figure, of floor space in a part of the room which is of less than a specified height.

(5) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A certificate of the local authority stating the number and floor areas of the rooms in a house, and that the floor areas have been ascertained in the prescribed manner, is evidence for the purposes of legal proceedings of the facts stated in it.

Powers of Secretary of State

138 Secretary of State may increase permitted number of persons temporarily.

(1) The Secretary of State may, subject to the provisions of this section, increase by order the number of permitted persons in relation to houses to which this section applies or a specified class of those houses.

(2) This section applies to houses consisting of a few rooms, or comprising rooms of exceptional floor area.

(3) The Secretary of State may make an order under this section if he is satisfied on the representation of the local authority that such houses constitute so large a proportion of the housing accommodation in their district, or in any part of it, that it would be impracticable to assess the permitted number of persons in accordance with the provisions of section 137(3).

(4) An order under this section may—

(a) direct that the provisions of section 137(3) are to have effect subject to such modifications for increasing the permitted number of persons as may be specified in the order;

(b) specify the period not exceeding 3 years during which such modifications are to apply;

(c) specify different modifications in relation to different classes of houses.

Status: *Point in time view as at 30/01/2004.*
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(5) Any period specified in the order may be extended by the Secretary of State on the application of the local authority.

(6) The Secretary of State shall consult the local authority before varying or revoking an order made under this section, and may vary it in respect of the modifications or of the houses to which the modifications apply or to both.

(7) An order made under this section shall be made by statutory instrument.

Responsibility of occupier

139 Penalty for occupier causing or permitting overcrowding.

(1) The occupier of a house who causes or permits it to be overcrowded is guilty of an offence, subject to subsection (2).

(2) The occupier is not guilty of an offence—

(a) if the overcrowding is within the exceptions specified in sections 140 or 141 (children attaining **[**F215age of one or 10**]** or temporary visitor), or

(b) by reason of anything done under the authority of, and in accordance with any conditions specified in, a licence granted by the local authority under section 142 or a resolution passed under section 143.

(3) A person committing an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Textual Amendments

F215 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 5**

140 Exception: children attaining age of 1 or 10.

(1) Where a house which would not otherwise be overcrowded becomes overcrowded by reason of a child attaining the age of one or 10, the occupier does not commit an offence under section 139(1) (occupier causing or permitting overcrowding), so long as the condition in subsection (2) is met and the occupier does not fail to accept an offer of suitable alternative accommodation or to secure the removal of any person living in the house who is not a member of his family and whose removal is reasonably practicable.

(2) The condition is that all the persons sleeping in the house are persons who were living there when the child attained that age and thereafter continuously live there, or children born after that date of any of those persons.

141 Exception: temporary visitor.

—The occupier of a house shall not be guilty of an offence under section 139(1) in respect of overcrowding if the overcrowding is caused by a temporary resident whose stay does not exceed 16 days and to whom lodging is given by the occupier otherwise than for gain.

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142 Licence of local authority.

(1) The occupier or intending occupier of a house may apply to the local authority for a licence authorising him to permit a number of persons in excess of the permitted number to sleep in the house.

(2) The authority may grant such a licence if it appears to them that there are exceptional circumstances and that it is expedient to do so; and they shall specify in the licence the number of persons authorised in excess of the permitted number.

(3) The licence shall be in the prescribed form and may be granted either unconditionally or subject to conditions specified in it.

(4) The local authority may revoke the licence at their discretion by notice in writing served on the occupier and specifying a period (at least one month from the date of service) at the end of which the licence will cease to be in force.

(5) Unless previously revoked, the licence continues in force for such period not exceeding twelve months as may be specified in it.

(6) A copy of the licence and of any notice of revocation shall, within seven days of the issue of the licence or the service of the notice on the occupier, be served by the local authority on the landlord (if any) of the house.

143 Exception: holiday visitors.

(1) A local authority may, for the purpose of providing for a seasonal increase of holiday visitors in their area, pass a resolution authorising—

(a) the occupiers of houses generally;

(b) the occupiers of houses of a specified class,

in their area or any specified part of it to permit such number of persons in excess of the permitted number as may be specified to sleep in those houses during any period it is in force.

(2) Such a resolution—

(a) requires the approval of the Secretary of State;

(b) is subject to such conditions as may be specified in it; and

(c) remains in force during the year in which it is passed for such period or periods not exceeding 16 weeks in the aggregate as it may specify.

Powers and duties of landlord

144 Offence by landlord not to inform prospective tenant of permitted number of occupants.

(1) The landlord of a house is guilty of an offence if he lets or agrees to let it to any person without—

(a) giving that person a written statement in the prescribed form of the permitted number of persons in relation to the house, and

(b) obtaining from that person a written acknowledgement in the prescribed form, and

(c) exhibiting the acknowledgement to the local authority on demand by them.

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(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) A written statement given under subsection (1)(a) shall be treated as being sufficient and correct if it agrees with information given by the local authority under section 148.

145 Recovery of possession of overcrowded house that is let.

—If the occupier of a house is guilty of an offence by reason of it being overcrowded—

(a) nothing in the [M38]Rent (Scotland) Act 1984 **[**[F216]or in Part II of the Housing (Scotland) Act 1988**]** shall prevent the landlord from obtaining possession of the house;

(b) the local authority after giving to the landlord written notice of their intention to do so may take any such steps for the termination of the occupier's tenancy or for his removal or ejection from the house as the landlord could take.

Textual Amendments

F216 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 14**

Marginal Citations

M38 1984 c. 58.

Powers and duties of local authority

146 Duty of local authority to inspect district and to make reports and proposals as to overcrowding.

(1) A local authority shall, subject to the provisions of this section, carry out an inspection of their district or any part of it for the purpose of identifying houses that are overcrowded.

(2) An inspection under subsection (1) shall be carried out at such times as—

(a) it appears to the local authority that there is occasion to do so, or

(b) the Secretary of State so directs.

(3) On carrying out such an inspection the local authority shall prepare and submit to the Secretary of State a report indicating—

(a) the result of the inspection, and

(b) the additional housing accommodation required to put an end to overcrowding in the area to which the report relates, and

(c) subject to subsection (5), proposals for its provision, and

(d) in relation to such proposals, a statement of the steps the local authority propose to take to secure that priority is given to rehousing families living under the worst conditions of overcrowding or otherwise living under unsatisfactory housing conditions.

(4) The report shall give such details as the Secretary of State may direct.

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(5) The report shall not require to make proposals for the additional housing accommodation required, if the local authority satisfy the Secretary of State that it will be otherwise provided.

(6) Where the Secretary of State gives a direction under subsection (2), he may fix dates before which the performance of their duties under this section is to be completed.

147 Power to require information about persons sleeping in house.

(1) The local authority may, for the purpose of enabling them to discharge their duties under this Part, serve notice on the occupier of a house requiring him to give them within 14 days a written statement of the number, ages and sexes of the persons sleeping in the house.

(2) The occupier shall be guilty of an offence if—

(a) he makes default in complying with the requirement, or

(b) he gives a statement which to his knowledge is false in a material particular,

and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

148 Duty to give information to landlords and occupiers.

(1) A local authority shall inform the landlord and the occupier of a house in writing of the permitted number of persons in relation to the house as soon as they have ascertained the floor area of the rooms.

(2) They shall also so inform the landlord or the occupiers if they apply for the information.

149 Power to publish information.

A local authority may publish information for the assistance of landlords and occupiers of houses as to their rights and duties under this Part.

150 Duty to enforce this Part.

A local authority shall enforce the provisions of this Part.

151 Interpretation and application.

(1) In this Part, except where the context otherwise requires—

"house" means any premises used or intended to be used as a separate dwelling . . . [F217];

"landlord" means, in relation to any house, the person from whom the occupier derives his right to occupy it;

"suitable alternative accommodation" means, in relation to the occupier of a house, a house in which the occupier and his family can live without causing it to be overcrowded, being a house which the local authority certify to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and to be suitable in relation to his means.

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(2) The provisions of sections 138(1) to (5), **[**[F218]139, 140 and 144**]** apply only to a locality in respect of which a day has been appointed under section 99 of the Housing (Scotland) Act 1966 or under any enactment referred to in that section.

Textual Amendments

F217 Words repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1)(3), Sch. 8 para. 3, **Sch. 10**

F218 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 6**

PART VIII

HOUSES IN MULTIPLE OCCUPATION

Registration schemes

152 Registration schemes.

(1) A local authority may make and submit to the Secretary of State for confirmation by him a registration scheme authorising the authority to compile and maintain a register for their district of—

(a) houses which, or a part of which, are let in lodgings, or which are occupied by members of more than one family; and

(b) buildings which comprise separate dwellings, two or more of which lack either or both of the following—

(i) a sanitary convenience accessible only to those living in the dwelling, and

(ii) personal washing facilities so accessible,

and the Secretary of State may, if he thinks fit, confirm the scheme, with or without modification.

(2) A registration scheme need not be for the whole of a local authority's district and need not be for every description of house or building falling within paragraphs (a) and (b) of subsection (1).

(3) A registration scheme may—

(a) specify the particulars to be inserted in the register;

(b) make it the duty of such persons as may be specified by the scheme to notify the local authority of the fact that a house or building appears to be registrable, and to give to the authority as regards the house or building all or any of the particulars specified in the scheme;

(c) make it the duty of such persons to notify the authority of any change which makes it necessary to alter the particulars inserted in the register as regards any house or building; and

(d) make a contravention of, or failure to comply with, any provision in the scheme an offence under the scheme, and a person guilty of an offence under the scheme shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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(4) A registration scheme may vary or revoke a previous registration scheme and a local authority may at any time, with the consent of the Secretary of State, by order revoke a registration scheme.

(5) A registration scheme shall not come into force until it has been confirmed but, subject to that, comes into force on such date as may be fixed by the scheme or, if no date is so fixed, at the expiration of one month after it is confirmed.

153 Steps to inform the public about scheme.

(1) The local authority shall publish notice of their intention to submit a registration scheme to the Secretary of State for confirmation in one or more newspapers circulating in their district at least one month before the scheme is submitted to the Secretary of State for confirmation by him.

(2) As soon as any such scheme is confirmed by the Secretary of State, the local authority shall publish in one or more newspapers circulating in their district a notice—

(a) stating the fact that a registration scheme has been confirmed, and

(b) describing any steps which will have to be taken under the scheme by those concerned with registrable houses and buildings (other than steps which have only to be taken after a notice from the local authority), and

(c) naming a place where a copy of the scheme may be seen at all reasonable hours.

(3) A copy of a registration scheme confirmed by the Secretary of State—

(a) shall be printed and deposited at the offices of the local authority by whom it was made, and

(b) shall at all reasonable hours be open to public inspection without payment, and

(c) a copy thereof shall on application be furnished to any person on payment of such sum, not exceeding 5p for every copy, as the authority may determine.

(4) If a local authority revoke a registration scheme by order they shall publish notice of the order in one or more newspapers circulating in their district.

154 Proof of scheme and contents of register.

The production of a printed copy of a registration scheme purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed by the proper officer of the authority stating—

(a) that the scheme was made by the authority,

(b) that the copy is a true copy of the scheme, and

(c) that on a specified date the scheme was confirmed by the Secretary of State,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of the person by whom the certificate purports to be signed.

155 Power to require information for purposes of scheme.

(1) Without prejudice to the provisions of section 325 (power of local authority to require occupier to state interest), a local authority may—

(a) for the purpose of ascertaining whether a house or building is registrable, and

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(b) for the purpose of ascertaining the particulars to be entered in the register as regards the house or building,

require any person who has an estate or interest in, or who lives in, the house or building to state in writing any information in his possession which the authority may reasonably require for that purpose.

(2) Any person who, having been required in pursuance of this section to give information to a local authority, fails to give information, or knowingly makes any mis-statement in respect of it, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Management code

156 Power of Secretary of State to make management code.

(1) The Secretary of State may by regulations contained in a statutory instrument with a view to providing a code for the management of houses which may be applied under section 157, make provision for the purpose of ensuring that the person managing a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family observes proper standards of management.

(2) Without prejudice to the generality of subsection (1), the regulations may, in particular, require the person managing a house to which the regulations apply to ensure the repair, maintenance, cleansing and good order of—

(a) all means of water supply and drainage in the house;
(b) kitchens, bathrooms and water closets used in common by persons living in the house;
(c) sinks and wash-basins used in common by persons living in the house;
(d) the roof and windows forming part of the house;
(e) common staircases, corridors and passage ways;
(f) outbuildings, yards and gardens used in common by persons living in the house;

and to make satisfactory arrangements for the disposal of refuse and litter from the house.

(3) The regulations may—

(a) make different provision for different types of houses;
(b) provide for keeping a register of the names and addresses of those who are managers of houses;
(c) impose duties on persons who have an estate or interest in a house or any part of a house to which the regulations apply as to the giving of information to the local authority, and in particular may make it the duty of any person who acquires or ceases to hold an estate or interest in such a house to notify the authority;
(d) impose duties on persons who live in a house to which the regulations apply for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
(e) authorise the local authority to obtain information as to the number of individuals or households accommodated in the house;

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(f) make it the duty of the person managing the house to cause a copy of the order under section 157 and of the regulations, to be displayed in a suitable position in the house;

(g) contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.

(4) If any person knowingly contravenes or without reasonable excuse fails to comply with any regulation under this section as applied under this Act in relation to any house he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) In this section, "person managing a house" means—

(a) the person who is an owner or lessee of the house and who, directly or through a trustee, tutor, curator, factor or agent, receives rents or other payments from persons who are tenants of parts of the house, or who are lodgers; and

(b) where those rents or other payments are received through another person as his trustee, tutor, curator, factor or agent, that other person.

(6) Regulations under this section may vary or replace for the purposes of this section and of the regulations made under it the definition of the "person managing a house" in subsection (5).

157 Power of local authority to apply management code to particular house.

(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family is in an unsatisfactory state in consequence of failure to maintain proper standards of management and, accordingly, that it is necessary that the regulations made under section 156 should apply to the house, the authority may by order direct that those regulations shall so apply; and so long as the order is in force the regulations shall apply in relation to the house accordingly.

(2) Not less than 21 days before making an order under this section, the local authority shall—

(a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to make the order, and

(b) post such a notice in some position in the house where it is accessible to those living in the house,

and shall afford to any person on whom a notice is served an opportunity of making representations regarding their proposal to make the order.

(3) The order comes into force on the date on which it is made.

(4) The local authority shall within 7 days from the making of the order—

(a) serve a copy of the order on an owner of the house and on every person who is to their knowledge a lessee of the house, and

(b) post a copy of the order in some position in the house where it is accessible to those living in the house.

(5) The local authority may at any time revoke the order on the application of a person having an estate or interest in the house.

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158 Appeal against making of, or failure to revoke, order under s.157.

(1) A person on whom a copy of an order is served under section 157(4), and any other person who is a lessee of the house, may, within 14 days from the latest date by which copies of the order are required to be served, appeal to the sheriff on the ground that the making of the order was unnecessary.

(2) On an appeal under subsection (1) the sheriff shall take into account the state of the house at the time when the local authority under section 157 served notice of their intention to make the order, as well as at the time of the making of the order, and shall disregard any improvement in the state of the house between those times unless the sheriff is satisfied that effective steps have been taken to ensure that the house will in future be kept in a satisfactory state.

(3) If the sheriff allows the appeal, he shall revoke the order, but without prejudice to its operation prior to the revocation and without prejudice to the making of a further order.

(4) If a local authority—

(a) refuse an application for the revocation of an order under section 157(5), or

(b) do not within 42 days from the making of the application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application,

the applicant may appeal to the sheriff and the sheriff, if of the opinion that there has been a substantial change in the circumstances since the making of the order, and that it is in other respects just to do so, may revoke the order.

159 Registration of order and of revocation.

(1) The local authority shall as soon as practicable after an order under section 157 has come into force cause the order to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be.

(2) If any such order is revoked the authority shall as soon as practicable cause to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be, a notice stating that the order has been revoked.

Powers of local authority to require works to be done

160 Notice requiring compliance with management code.

(1) If in the opinion of the local authority the condition of a house is defective in consequence of—

(a) neglect to comply with the requirements imposed by regulations under section 156 (regulations prescribing management code), or

(b) in respect of a period falling wholly or partly before the regulations applied to the house, neglect to comply with standards corresponding to the requirements imposed by the regulations,

the authority may serve on the person managing the house a notice specifying the works which in the opinion of the authority are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

(2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice under this section may be served by addressing

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it to him by the description of "manager of the house" (naming the house to which it relates) and by delivering it to some person on the premises.

(3) The notice shall require the execution of the works specified in the notice within such period, being not less than 21 days from the service of the notice, as may be so specified.

(4) That period may from time to time be extended by written permission of the local authority.

(5) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

161 Notice requiring compliance with standards.

(1) The local authority may serve a notice under this section where the condition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family is, in the opinion of the authority, so far defective with respect to any of the matters mentioned in subsection (2), having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households.

(2) The matters referred to in subsection (1) are—

natural and artificial lighting,

ventilation,

water supply,

personal washing facilities,

drainage and sanitary conveniences,

facilities for the storage, preparation and cooking of food, and for the disposal of waste water,

installations for space heating or for the use of space heating appliances.

(3) The notice shall specify the works which in the opinion of the authority are required for rendering the premises reasonably suitable—

(a) for occupation by the individuals and households for the time being accommodated there, or

(b) for a smaller number of individuals or households and the number of individuals or households, or both, which, in the opinion of the authority, the premises could reasonably accommodate if the works were carried out.

(4) The notice shall be served either—

(a) on the person having control of the house, or

(b) on any person to whom the house is let, or on any person who, as the trustee, tutor, curator, factor or agent for or of a person to whom the house is let, receives rents or other payments from tenants of parts of the house or lodgers in the house.

(5) The notice shall require the person on whom it is served to execute the works specified in the notice within such period (of at least 21 days from the service of the notice) as may be so specified.

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(6) That period may from time to time be extended by written permission of the authority.

(7) If the local authority are satisfied that—

(a) after the service of a notice under this section in respect of any premises the number of individuals living on those premises has been reduced to a level which will make the work specified in the notice unnecessary, and

(b) that number will be maintained at or below that level whether in consequence of exercise of the authority's powers under section 166 (powers to limit number of occupants of houses) or otherwise,

they may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

(8) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

162 Notice requiring provision of means of escape from fire.

(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family is not provided with such means of escape from fire as the authority consider necessary, the authority may, subject to this section, serve on any person on whom a notice may be served under section 161 a notice specifying the works which in the opinion of the authority are required to provide such means of escape, and requiring the person on whom the notice is served to execute those works.

(2) A local authority shall serve such a notice if such house is of such description or occupied in such manner as the Secretary of State may, with the consent of the Treasury, specify by order a draft of which has been approved by the House of Commons.

(3) A local authority shall, before serving a notice under this section, consult with the fire authority concerned.

(4) A notice under this section shall require the execution of the works within such period, being not less than 21 days from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(5) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

(6) In this section "fire authority" has the same meaning as in section 82.

163 Appeal against notice requiring execution of works.

(1) A person on whom a notice is served under section 160, 161 or 162 or any other person who is an owner or lessee of the house, or a person holding a heritable security over the house, to which the notice relates, may, within 21 days from the service of the

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notice, or within such longer period as the local authority may in writing allow, appeal to the sheriff on any of the grounds specified in subsection (2).

(2) Those grounds are—

(a) that there has been some informality, defect or error in, or in connection with, the notice;

(b) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;

(c) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

(d) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from the execution of the works, and that that other person ought to pay the whole or any part of the expenses of executing the works;

(e) in the case of a notice under section 160, that the condition of the house did not justify the local authority in requiring the execution of the works specified in the notice;

(f) in the case of a notice under section 161, that—

(i) having regard to the matters mentioned in subsections (1) and (2) of that section, the condition of the house did not justify the local authority in requiring the execution of the works specified in the notice;

(ii) the number of individuals or households, or both, specified in the notice is unreasonably low;

(g) in the case of a notice under section 162, that the notice is not justified by the terms of that section.

(3) In an appeal on ground (a), the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(4) In an appeal on ground (d)—

(a) the appellant shall serve a copy of his notice of appeal on each other person referred to in that notice, and

(b) on the hearing of the appeal the sheriff may, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, make such order as he thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is executed by the local authority, to the authority.

(5) If on an appeal under this section against a notice under section 161, the sheriff is satisfied that the number of persons living in the house has been reduced, and that adequate steps (whether by the exercise by the exercise by the local authority of the power conferred by section 166 to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased, the sheriff may, if he thinks fit, revoke the notice or vary the list of works specified in the notice.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

164 Carrying out of works by local authority.

(1) If a notice under section 160, 161 or 162 (notice requiring the execution of works) is not complied with, the local authority may themselves do the works required by the notice, with any variation made by the sheriff.

(2) Compliance with a notice means the completion of the works specified in the notice within the period for compliance, which is—

(a) if no appeal is brought against the notice, the period specified in the notice with any extension duly permitted by the local authority;

(b) if an appeal is so brought, and the notice is confirmed in whole or in part on the appeal, the period of 28 days from the final determination of the appeal, or such longer period as the sheriff in determining the appeal may fix.

(3) If, before the expiration of the period for compliance with the notice, the person on whom the notice was served notifies the local authority in writing that he is not able to do the work in question, the authority may, if they think fit, themselves do the work forthwith.

(4) Part IV of Schedule 11 shall have effect in relation to the recovery by the local authority of expenses reasonably incurred by them under this section.

165 Penalty for failure to execute works.

(1) A person on whom a notice has been served under section 160, 161 or 162 who wilfully fails to comply with the notice, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—

(a) in the case of a notice under section 160 or 161, level 3 on the standard scale;

(b) in the case of a notice under section 162, level 4 on the standard scale.

(2) The obligation to execute the works specified in the notice continues notwithstanding that the period for compliance has expired; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under subsection (1) or this subsection, commits a further summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

(3) References in this section to compliance with a notice and to the period for compliance shall be construed in accordance with section 164(2).

(4) No liability arises under subsection (1) if the local authority, on being notified under section 164(3) by the person on whom any such notice requiring the execution of works was served that he is not able to do the work in question, serve notice that they propose to do the work and relieve the person served with the notice from liability under subsection (1).

(5) Subsection (1) shall be without prejudice to the exercise by the local authority of their powers of carrying out works under section 164.

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Overcrowding

166 Local authority may give directions to prevent or reduce overcrowding in house in multiple occupation.

(1) A local authority may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or further notice under section 161, fix as a limit for any house what is in their opinion the highest number of individuals who should, having regard to the considerations set out in subsections (1) and (2) of that section, live in the house in its existing condition, and give a direction applying that limit to the house.

References in this section to a house include references to part of a house, and the local authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

(2) The powers conferred by this section shall be exercisable whether or not a notice has been given under section 161 and where a local authority have served a notice under subsection (3) of that section specifying the number of individuals or households, or both, which in the opinion of the authority any premises could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number of individuals, or a number of individuals determined by reference to that number of households, in fixing a limit under subsection (1) as respects those premises.

(3) The powers conferred by subsection (1) may be exercised as regards any premises nothwithstanding the existence of any previous direction under the subsection laying down a higher maximum.

(4) A direction under subsection (1) shall have effect so as to make it the duty of the occupier for the time being of the house—

(a) not to permit any individual to take up residence in the house so as to increase the number of individuals living in the house to a number above the limit specified in the direction, and

(b) where the number of individuals living in the house is for the time being above the limit so specified and any individual ceases to reside in the house, not to permit any other individual to take up residence in the house.

In this subsection the reference to the occupier for the time being of a house shall include a reference to any person who is for the time being entitled or authorised to permit individuals to take up residence in the house or any part of it.

(5) If any person knowingly fails to comply with the requirements imposed on him by subsection (4) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

167 Notice of direction.

(1) A local authority shall, not less than 7 days before giving a direction under section 166—

(a) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and

(b) post such a notice in some position in the house where it is accessible to those living in the house,

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and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.

(2) The local authority shall within 7 days from the giving of any such direction—

(a) serve a copy of the direction on an owner of the house and on every person who is to their knowledge a lessee of the house, and

(b) post a copy of the direction in some position in the house where it is accessible to those living in the house.

168 Power to require information where notice is in force.

(1) The local authority may from time to time serve on the occupier of a house or part of a house in respect of which a direction under section 166 is in force a notice requiring him to furnish them within 7 days with a statement in writing giving all or any of the following particulars—

(a) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be;

(b) the number of families or households to which those individuals belong;

(c) the names, ages and sex of those individuals and the names of the heads of each of those families or households;

(d) the rooms used by those individuals and families or households respectively.

(2) If the occupier makes default in complying with the requirements or furnishes a statement which to his knowledge is false in any material particular, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

169 Revocation and variation.

(1) At any time after giving such a direction the local authority may on the application of any person having an estate or interest in the house—

(a) revoke that direction, or

(b) vary it so as to allow more people to be accommodated in the house.

(2) In exercising their powers under subsection (1) the local authority shall have regard to—

(a) any works which have been executed in the house, or

(b) any other change of circumstances.

170 Appeal against refusal.

(1) If the local authority refuse an application under section 169 or do not within 42 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff.

(2) The sheriff may revoke the direction or vary it in any manner in which it might have been varied by the authority.

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Supplementary

171 Application of sections 156 to 161 to certain buildings comprising separate dwellings.

(1) Subject to the provisions of this section, sections 156 to 161 apply—

(a) to a building which is not a house but comprises separate dwellings, two or more of which lack either or both of the following—

(i) a sanitary convenience accessible only to those living in the dwelling, and

(ii) personal washing facilities so accessible, and

(b) to a building which is not a house but comprises separate dwellings, two or more of which are wholly or partly let in lodgings or occupied by members of more than one family,

being in either case a building all the dwellings in which are owned by the same person, as if references in those sections to a house which, or part of which, is let in lodgings or which is occupied by members of more than one family included references to any such building.

(2) A notice under section 161(3)(b) shall not by virtue of this section be served in respect of such a building.

(3) A direction under section 166 shall not by virtue of this section be given in relation to such a building.

(4) If a local authority make an order under section 157, as applied by subsection (1), in respect of any building at a time when another order under that section is in force as respects one of the dwellings in the building, they shall revoke the last-mentioned order.

(5) References to a house in sections 163, 164, 175 and 177 shall include references to a building to which this section applies.

172 Management code to be available for dwellings in certain tenements.

(1) If—

(a) all the dwellings in any tenement are owned by the same person, and

(b) all or any of those dwellings are without one or more of the standard amenities,

sections 156 to 160 shall apply to the tenement as if references in those sections to a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family included references to the tenement.

(2) If a local authority make an order under section 157, as applied by subsection (1), in respect of any tenement at a time when another order under that section is in force as respects one of the dwellings in the tenement, they shall revoke the last-mentioned order.

(3) References to a house in section 163 (so far as relating to appeals against notices under section 160) and in sections 164, 175 and 177 shall include references to a tenement to which this section applies.

(4) In this section—

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"dwelling" means a building or part of a building occupied or intended to be occupied as a separate house;

"tenement" means a building which contains two or more flats.

173 Warrant to authorise entry.

(1) Where it is shown to the satisfaction of the sheriff, or of a justice of the peace or magistrate, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, a local authority for the purpose—

(a) of survey and examination to determine whether any powers under the foregoing provisions of this Part should be exercised in respect of the premises, or

(b) of ascertaining whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part,

then, subject to this section, the sheriff, justice or magistrate may by warrant under his hand authorise that person to enter on the premises for the purposes mentioned in paragraphs (a) and (b), or for such of those purposes as may be specified in the warrant.

(2) A sheriff, justice or magistrate shall not grant a warrant under this section unless he is satisfied—

(a) that admission to the premises has been refused and, except where the purpose specified in the information—

(i) is the survey and examination of premises to determine whether there has been a failure to comply with a notice under section 160 or section 161 or section 162, or

(ii) is to ascertain whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part,

that admission was sought after not less than 24 hours' notice of the intended entry had been given to the occupier; or

(b) that an application for admission to the premises would defeat the object of the entry.

(3) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.

(4) Any person who, in the exercise of a right of entry under this section, enters any premises which are unoccupied, or any premises the occupier of which is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.

(5) Any power of entry conferred by this section—

(a) shall include power to **[**F219enter**]**, if need be, by force, and

(b) may be exercised by the person on whom it is conferred either alone or together with any other persons.

Textual Amendments

F219 Word substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 7**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

174 Application to sheriff where consent unreasonably withheld.

If on an application made by any person required by a notice under the foregoing provisions of this Part to execute any works it appears to the sheriff that any other person having an estate or interest in the premises has unreasonably refused to give any consent required to enable the works to be executed, the sheriff may give the necessary consent in place of that other person.

175 Protection of superiors and owners.

(1) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part in relation to those lands and heritages or any part thereof.

(2) Nothing in the foregoing provisions of this Part shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance or non-performance of any agreement or stipulation entered into by a lessee with reference to any house in respect of which a notice requiring the execution of works is served by a local authority under the foregoing provisions of this Part, or as respects which regulations made under section 156 are for the time being in force; and if any owner is obliged to take possession of a house in order to comply with any such notice the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which has occurred before he so took possession.

176 Identity and notice under Part VIII.

(1) A local authority shall take reasonable steps to identify the persons mentioned in subsection (2).

(2) Those persons are—

(a) the person having control of or managing premises;

(b) the person having an estate or interest in premises or any class of such persons,

upon whom the local authority require to serve a document under this Part.

(3) A person having an estate or interest in premises may for the purposes of this Part give notice to the local authority of his interest in the premises, and the authority shall enter the notice in their records.

177 Statutory tenant to be regarded as lessee, etc.

In this Part—

(a) references to a lessee of a house and to a person to whom a house is let include references to any person who retains possession of the house by virtue of the [M39]Rent (Scotland) Act 1984 **[**[F220]or Part II of the Housing (Scotland) Act 1988**]** and not as being entitled to any tenancy; and

(b) references to a person having an estate or interest in a house include references to any person who retains possession of the house as mentioned in paragraph (a).

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Textual Amendments

F220 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 15**

Marginal Citations

M39 1984 c. 58.

Control orders

178 Making of control order.

(1) A local authority may make a control order in respect of a house in their district which, or a part of which, is let in lodgings, or which is occupied by members of more than one family if—

(a) a notice has been served in respect of the house under section 160 or 161 (notices requiring the execution of works),

(b) a direction has been given in respect of the house under section 166 (direction limiting number of occupants),

(c) an order under section 157 is in force in respect of the house (order applying management code), or

(d) it appears to the local authority that the state or condition of the house is such as to call for the taking of action under any of those sections,

and if it appears to the local authority that the living conditions in the house are such that it is necessary to make the control order in order to protect the safety, welfare or health of persons living in the house.

(2) A local authority may exclude from the provisions of a control order any part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house, and, except where the context otherwise requires, references in this Part to the house do not include references to any part of the house so excluded from the provisions of the control order.

(3) A control order shall come into force when it is made, and as soon as practicable after making a control order the local authority shall, in exercise of the power conferred in the following provisions of this Part and having regard to the duties imposed on them by the said provisions, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.

(4) As soon as practicable after making a control order the local authority shall—

(a) post a copy of the control order, together with a notice as described in subsection (5), in some position in the house where it is accessible to those living in the house; and

(b) serve a copy of the control order, together with such a notice, on every person who, to the knowledge of the local authority—

(i) was, immediately before the coming into force of the control order, a person managing the house or a person having control of the house, or

(ii) is an owner or lessee of the house or a person holding a heritable security over the house.

Status: *Point in time view as at 30/01/2004.*
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(5) The notice referred to in subsection (4) shall set out the effect of the control order in general terms, referring to the rights of appeal against control orders conferred by this Part and stating the principal grounds on which the local authority consider it necessary to make a control order.

(6) As soon as practicable after making a control order the local authority shall cause the control order to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be.

179 General effect of control order.

(1) While a control order is in force the local authority—

(a) have the right to possession of the premises, and

(b) have the right to do, and to authorise others to do, in relation to the premises anything which any person having an estate or interest in the premises would, but for the making of the control order, be entitled to do, without incurring any liability to any such person except as expressly provided by this Part.

(2) Subject to subsection (3), the local authority may, notwithstanding that they do not, under this section, have an interest amounting to an estate in the premises, create an interest in the premises which, as near as may be, has the incidents of a lease and, subject to the provisions of section (4) and to any other express provision of this Part, any enactment or rule of law relating to landlords and tenants or leases shall apply in relation to any interest created under this section as if the local authority were the owner of the premises.

(3) Subject to the provisions of paragraphs 5(6) and 6(1) of Schedule 11, the local authority shall not, in exercise of the power conferred by this section, create any right in the nature of a lease or licence which is for a fixed term exceeding one month, **[**[F221]or**]** which is terminable by notice to quit (or an equivalent notice) of more than 4 weeks:

Provided that this subsection shall not apply to a right created with the consent in writing of the person or persons who would have power to create that right if the control order were not in force.

(4) On the coming into force of a control order any order under section 157, and any notice or direction under sections 160, 161, 162 or 166, shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local authority to recover any expenses incurred in carrying out any works.

(5) References in this Act or in any other enactment to housing accommodation provided or managed by a local authority shall not include references to any house which is subject to a control order, but this subsection shall not be taken as restricting the powers of acquiring land by agreement or compulsorily conferred on local authorities by Part I.

Textual Amendments

F221 Word substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 8**

Status: *Point in time view as at 30/01/2004.*
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180 Effect of control order on persons occupying house.

(1) This section applies to a person who at the time a control order comes into force—

(a) is occupying any part of the house, and

(b) does not have an estate or interest in the whole of the house.

(2) Section 179 (general effect of control order) does not affect the rights or liabilities of such a person under any lease, licence or agreement, whether in writing or not, under which that person is occupying any part of the house at the time when the control order comes into force, and—

(a) any such lease, licence or agreement has effect, while the control order is in force, as if the local authority were substituted in it for any party to it who has an estate or interest in the house and who is not a person to whom this section applies; and

(b) any such lease continues to have effect as near as may be as a lease notwithstanding that the rights of the local authority, as substituted for the lessor, do not amount to an estate in the premises.

(3) Subject to the provisions of subsection (4) and to any other express provision of this Part, any enactment or rule of law relating to landlords and tenants or leases shall apply in relation to any lease to which the local authority become a party under this section as if the authority were the owner of the premises.

(4) Section 5 of the [M40]Rent (Scotland) Act 1984 (which excludes lettings by local authorities from being protected tenancies within the meaning of the Act) **[**[F222]and paragraph 11 of Schedule 4 to the Housing (Scotland) Act 1988 (which excludes lettings by local authorities from being assured tenancies within the meaning of the Act)**]** shall not apply to any lease or agreement under which a person to whom this section applies is occupying any part of the house, and if immediately before the control order came into force any person to whom this section applies was occupying part of the house under a protected or statutory tenancy, within the meaning of the Rent (Scotland) Act 1984 **[**[F223]or an assured tenancy, within the meaning of the Housing (Scotland) Act 1988,**]** nothing in this Part relating to control orders shall prevent the continuance of that **[**[F224]protected, statutory or assured**]** tenancy nor affect the continued operation of **[**[F225]those Acts**]** in relation to that **[**[F224]protected, statutory or assured**]** tenancy after the coming into force of the control order.

(5) So much of the regulations made under section 156 as imposes duties on persons who live in a house to which the regulations apply (regulations prescribing management code) also applies to persons who live in a house as respects which a control order is in force.

(6) Without prejudice to the rights conferred on the local authority by section 179, the authority and any person authorised in writing by them, shall have the right at all reasonable times, as against any person having an estate or interest in a house which is subject to a control order, to enter any part of the house for the purpose of—

(a) survey and examination, and

(b) carrying out any works.

(7) The rights conferred by subsection (6) shall, so far as reasonably required for the purpose of survey and examination of a part of a house subject to a control order, or for the purpose of carrying out any works in that part of a house, be exercisable as respects the part of the house which, by virtue of section 178(2), is not subject to the control order.

Status: *Point in time view as at 30/01/2004.*
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Textual Amendments

F222 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 16(a)**

F223 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 16(b)**

F224 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 16(c)**

F225 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 16(d)**

Marginal Citations

M40 1984 c. 58.

181 Effect of control order in relation to furniture in furnished lettings.

(1) Subject to this section, if on the date on which a control order comes into force there is any furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor (whether included in the rent payable by the resident or not), the right to possession of the furniture shall, on that date and as against all persons other than the resident, vest in the local authority and remain vested in the authority while the control order remains in force.

(2) The local authority may, on the application in writing of the person owning any furniture to which subsection (1) applies, by notice served on that person not less than 2 weeks before the notice takes effect, renounce the right to possession of the furniture conferred by subsection (1).

(3) In respect of the period during which the local authority have the right to possession of any furniture in pursuance of subsection (1), the authority shall be liable to pay to the dispossessed proprietor compensation in respect of the use of any furniture the right to possession of which vests under that subsection at such rate as the parties may agree or as may be determined by the rent assessment committee constituted under section 44 of the [M41]Rent (Scotland) Act 1984 or under any corresponding enactment repealed by that Act for the area in which the house is situated.

(4) If the local authority's right to possession of any furniture conferred by subsection (1) is a right exercisable as against more than one person interested in the furniture, any such person may apply to the sheriff for an adjustment of the rights and liabilities of those persons as regards the furniture, and the sheriff may make an order for any such adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as he thinks just and equitable.

(5) Compensation due under this section—

(a) shall be payable by quarterly instalments, the first instalment being payable 3 months after the date when the control order comes into force;

(b) is to be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.

(6) In this Part "dispossessed proprietor" means the person by whom the rents or other periodical payments to which a local authority become entitled on the coming into force of a control order would have been receivable but for the making of the control order, and the successors in title of that person; and in this section "furniture" includes fittings and other articles.

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Marginal Citations
M41 1984 c. 58.

182 General duties of local authority when control order in force.

(1) The local authority shall—

(a) exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house,

(b) take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under any other provision of this Part if they had not made a control order.

(2) The local authority may fit out, furnish and supply any house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

(3) The local authority shall make reasonable provision for insurance of any premises subject to a control order, including any part of the premises which, by virtue of section 178(2), is excluded from the provisions of the control order, against destruction or damage by fire or other cause, and premiums paid for the insurance of the premises shall, for the purposes of the provisions of this Part, be treated as expenditure incurred by the local authority in respect of the premises.

(4) The local authority shall keep full accounts of their income and expenditure in respect of a house which is subject to a control order, and afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts.

(5) While a control order is in force the local authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

183 Compensation payable to dispossessed proprietor.

(1) The local authority shall be liable to pay the dispossessed proprietor compensation in respect of the period during which the control order is in force at an annual rate of an amount equal to one half of the gross annual value for rating purposes of the house as shown in the valuation roll on the date when the control order comes into force.

(2) Compensation due under this section—

(a) shall be payable by quarterly instalments, the first instalment being payable 3 months after the date when the control order comes into force;

(b) is to be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.

(3) If at the time when compensation under this section accrues due the estate or interest of the dispossessed proprietor is subject to any heritable security or charge, the compensation shall be deemed to be comprised in that heritable security or charge.

(4) For the purposes of the references in this section to the gross annual value of a house—

(a) where after the date on which the control order comes into force the valuation roll is altered so as to vary the gross annual value of the house or of the lands and heritages of which house forms part, and the alteration has effect from

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a date not later than the date on which the control order comes into force, compensation shall be payable under this section as if the gross annual value of the house or lands and heritages shown in the valuation roll on the date when the control order came into force had been the amount of the value shown on the roll as altered; and

(b) if the house forms part only of any lands and heritages, such proportion of the gross annual value shown in the valuation roll for those lands and heritages as may be agreed in writing between the local authority and the person claiming the compensation shall be the gross annual value of the house;

and any dispute arising under paragraph (b) shall be determined by the sheriff on the application of either party.

(5) If different persons are the dispossessed proprietors of different parts of any house, compensation payable under this section shall be apportioned between them in such manner as they may agree (or as may, in default of agreement, be determined by the sheriff on the application of any of such persons) according to the proportions of the gross annual value of the house properly attributable to the parts of the house in which they are respectively interested.

(6) In the application of this section to any lands and heritages whose net annual value is ascertained under subsection (8) of section 6 of the [M42]Valuation and Rating (Scotland) Act 1956 (and for which there is therefore no gross annual value shown in the valuation roll)—

(a) in subsection (1), for the words "one half of the gross" there shall be substituted the words "0.625 of the net", and

(b) in each of subsections (4) and (5), for the word "gross", whenever it occurs, there shall be substituted the word "net".

Marginal Citations

M42 1956 c. 60.

184 Duty to prepare management scheme.

(1) After a control order has been made, the local authority shall prepare a management scheme and shall, not later than 8 weeks after the date on which the control order comes into force, serve a copy of the scheme on—

(a) every person who is to the knowledge of the authority—

(i) a dispossessed proprietor, or

(ii) an owner or lessee of the house, or a person holding a heritable security over the house, and

(b) on any other person on whom the local authority served a copy of the control order.

(2) Part I of Schedule 11 has effect with respect to the matters to be provided for in a management scheme and for related matters.

(3) This section does not affect the powers conferred on a local authority by section 179 and, accordingly, a local authority may carry out any works in a house which is subject to a control order whether or not particulars of those works have been included in a management scheme.

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185 Power of sheriff to modify or determine lease.

(1) Either the lessor or the lessee under any lease of premises which consist of or comprise a house which is subject to a control order, other than a lease to which section 180(2) applies, may apply to the sheriff for an order under this section.

(2) On any such application, the sheriff may make an order for the determination of the lease, or for its variation, and, in either case, either unconditionally or subject to such terms and conditions or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as the sheriff may think just and equitable to impose, regard being had to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances of the case.

(3) If on any such application the sheriff is satisfied that—

(a) if the lease is determined and control order is revoked the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local authority consider would have to be taken in pursuance of the powers conferred on them under this Part (other than those relating to control orders); and

(b) the local authority intend, if the lease is determined, to revoke the control order,

the sheriff shall exercise the jurisdiction conferred by this section so as to determine the lease.

Appeals

186 Appeal against control order.

(1) Any person having an estate or interest in a house to which a control order relates, or, subject to subsection (2), any other person, may appeal to the sheriff against the control order at any time after the making of the control order, but not later than the expiry of a period of 6 weeks from the date on which a copy of the relevant scheme is served in accordance with section 184(1).

(2) The sheriff may, before entertaining an appeal by a person who had not, when he brought the appeal, an estate or interest in the house, require the appellant to satisfy the sheriff that he may be prejudiced by the making of the control order.

(3) The grounds of appeal are—

(a) that (whether or not the local authority have made an order or issued a notice or direction under sections 157, 160, 161 or 166) the state or condition of the house was not such as to call for the taking of action under any of those provisions;

(b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;

(c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local authority to exercise their powers under section 178(2) so as to exclude from the provisions of the control order a part of the house (or a greater part of the house than has been excluded);

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(d) that the control order is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the control order.

(4) In so far as an appeal under this section is based on the ground that the control order is invalid, the sheriff shall confirm the control order unless satisfied that interests of the appellant have been substantially prejudiced by the facts relied on by him.

(5) A control order shall, subject to the right of appeal conferred by this section, be final and conclusive as to any matter which could have been raised on any such appeal.

(6) Where a control order is revoked on an appeal under this section, the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be, a notice stating that the control order has been revoked as aforesaid.

187 Control order revoked on appeal.

(1) This section shall have effect if a control order is revoked by the sheriff on an appeal against the control order.

(2) If the local authority are in the course of carrying out any works in the house which, if a control order were not in force, the authority would have power to require some other person to carry out under the provisions of this Part or under any other enactment relating to housing or public health, and on the hearing of the appeal the sheriff is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the sheriff may suspend the revocation of the control order until the works have been completed.

(3) Part II of Schedule 11 has effect in relation to matters arising on the revocation of a control order on appeal.

Expiration and revocation of control order, etc

188 Expiration of control order, and earlier revocation by local authority or sheriff.

(1) A control order shall cease to have effect on the expiry of a period of 5 years beginning with the date on which it came into force.

(2) The local authority may at any earlier time, either on an application under this section or on their own initiative, by order revoke a control order.

(3) Not less than 21 days before the local authority revoke a control order they shall serve notice of their intention to revoke the control order on the persons occupying any part of the house, and on every person who is to the knowledge of the authority an owner or lessee of the house or a person holding a heritable security over the house.

(4) If any person applies to the local authority requesting the authority to revoke a control order, and giving the grounds on which the application is made, the authority shall, if they refuse the application, inform the applicant of their decision and of their reason for rejecting the grounds advanced by the applicant.

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(5) Where the local authority propose to revoke a control order on their own initiative and apply to the sheriff under this subsection, the sheriff may take any of the following steps, to take effect on the revocation of the control order, that is—

(a) approve the making of an order under section 157;

(b) approve the giving of a notice under section 160 or section 161 or section 162; or

(c) approve the giving of a direction under section 166;

and no appeal lies against any order or notice so approved.

189 Effect of cessation of control order.

Part III of Schedule 11 (which sets out the consequences of a control order ceasing to have effect) shall have effect for the purposes of this Part.

190 Interpretation of Part VIII.

(1) In this Part of this Act, unless the context otherwise requires—

"dispossessed proprietor" has the meaning given by section 181(6);

"establishment charges" means, in relation to any expenditure incurred by a local authority, the proper addition to be made to that expenditure to take account of overhead expenditure incurred by the authority, and to allow for a proper return of capital;

"lease" includes a sublease or any tenancy, and any agreement for a lease, sublease or tenancy, and references to a lessor or to a lessee or to a person to whom a house is let shall be construed accordingly;

"licence" means any right or permission relating to land but not amounting to an estate or interest therein;

"person managing a house" has the meaning given to it by section 156(5);

"surpluses on revenue account as settled by the scheme" has the meaning given by paragraph 1(3) of Schedule 11.

(2) References in this Part to the net amount of rents or other payments received by a local authority from persons occupying a house are references to the amount of the rent and other payments received by the authority from those persons under leases or licences, or in respect of furniture to which section 181(1) applies, after deducting income tax paid or borne by the authority in respect of those rents and other payments.

(3) References in this Part to expenditure incurred in respect of a house subject to a control order include, in a case where the local authority—

(a) require persons living in a house to vacate their accommodation for any period while the local authority are carrying out works in the house, and

(b) defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house, or provide housing accommodation for those persons for any part of that period,

references to the sums so defrayed by the local authority, and to the net cost to the authority of so providing housing accommodation.

(4) For the purposes of this Part the withdrawal of an appeal shall be deemed the final determination thereof having the like effect as a decision dismissing the appeal.

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PART IX

GOVERNMENT GRANTS AND SUBSIDIES

Housing support grants to local authorities

191 Housing support grants: fixing of aggregate amount.

(1) For the purpose of assisting local authorities to meet reasonable housing needs in their areas, the Secretary of State shall make housing support grants in accordance with the provisions of this Part.

(2) Subject to subsection (5), for the purpose of fixing the aggregate amount of the housing support grants for any year, the Secretary of State shall, in respect of all local authorities, estimate the following amounts—

(a) the aggregate amount of eligible expenditure which it is reasonable for local authorities to incur for that year; and

(b) the aggregate amount of relevant income (other than housing support grants) which could reasonably be expected to be credited to the local authorities' housing revenue accounts for that year,

and the amount remaining after deducting the amount mentioned in paragraph (b) from the amount mentioned in paragraph (a) shall, subject to subsection (4) and section 193, be the aggregate amount of the housing support grants for that year.

(3) Before estimating the amounts mentioned in paragraphs (a) and (b) of subsection (2) for any year, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and shall take into consideration—

(a) the latest information available to him as to the level of eligible expenditure and relevant income;

(b) the level of interest rates, remuneration, costs and prices which, in his opinion, would affect the amount of eligible expenditure for that year; and

(c) the latest information available to him as to changes in the general level of earnings which would affect the amount of relevant income which could reasonably be expected for that year.

(4) In fixing the aggregate amount of the housing support grants for any year, the Secretary of State may take into acccount the extent, if any, to which the aggregate amount of eligible expenditure which it was reasonable for local authorities to incur for any previous year differs or is likely to differ from the aggregate amount for that previous year which he estimated or re-estimated under this section or section 193 respectively.

(5) In estimating the amounts mentioned in paragraphs (a) and (b) of subsection (2) the Secretary of State may leave out of account the eligible expenditure and relevant income of a local authority if (either or both)—

(a) he estimates that the amount of that income will exceed the amount of that expenditure;

(b) he determines, under section 192, that no proportion of the aggregate amount of the housing support grants is to be apportioned to that authority.

(6) In subsection (4), "local authorities" does not include an authority whose eligible expenditure was, for the purpose of the estimate, left out of an account under subsection (5).

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(7) The aggregate amount of the housing support grants, fixed in accordance with subsection (2) for any year, shall be set out in a housing support grant order made by the Secretary of State with the consent of the Treasury.

(8) A housing support grant order may be made in respect of any year before the beginning of that year.

(9) No housing support grant order shall be made until that order has been laid in draft before the Commons House of Parliament, together with a report of the considerations leading to the provisions of the order, and has been approved by a resolution of that House.

(10) In this Act—

"eligible expenditure", in relation to any year, means the expenditure which a local authority are required to debit to their housing revenue account for that year in pursuance of Schedule 15;

"relevant income", in relation to any year, means the income, payments, contributions (including any **[**F226contribution out of the general fund maintained under section 93 of the Local Government (Scotland) Act 1973**]**) and receipts which a local authority are required to credit to their housing revenue account for that year in pursuance of that Schedule.

Textual Amendments

F226 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 4**

Modifications etc. (not altering text)

C36 Ss. 191-193: power to exclude conferred (1.11.2001) by 2001 asp 10, **s. 94(1)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

192 Apportionment of housing support grants.

(1) Subject to the provisions of this section, the proportion, if any, of the aggregate amount of the housing support grants payable for any year to a local authority shall be determined by the Secretary of State, after consulting with such associations of local authorities as appear to him to be concerned, by such method as may be prescribed.

(2) A prescribed portion of the aggregate amount may be apportioned to a particular local authority.

(3) The report accompanying a housing support grant order in accordance with section 191(9) shall contain a table showing in respect of each local authority, for the year in question—

(a) the estimated amount of grant payable to that local authority; or

(b) if no amount of grant is so payable, that fact.

(4) In prescribing the method of determining the proportion, if any, of the aggregate amount of the housing support grants payable to a local authority for any year, the Secretary of State may take into account any substantial difference in the actual amount of any element of their eligible expenditure as compared with any estimate of the amount of that element made by him in determining the proportion payable to them for a previous year.

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(5) In prescribing the method of determining the proportion mentioned in subsection (1) payable for any year to a local authority the Secretary of State shall have regard to any special needs affecting eligible expenditure.

(6) The Secretary of State may, for any year (in this subsection referred to as "the current year"), prescribe such method of determining that proportion as to secure that no reduction in the amount of housing support grant payable to any local authority for the current year as compared with the amount of housing support grant so payable for the immediately preceding year is so great that there is an unreasonable increase for the current year over that preceding year in the amount of the authority's eligible expenditure which is required to be met by way of rent or **[**[F227]contributions out of the general fund maintained under section 93 of the Local Government (Scotland) Act 1973**]**.

(7) In this section "prescribed" means prescribed by a housing support grant order.

Textual Amendments

F227 Words substituted as provided by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 5**

Modifications etc. (not altering text)

C37 Ss. 191-193: power to exclude conferred (1.11.2001) by 2001 asp 10, **s. 94(1)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

193 Variation of orders.

(1) Subject to the provisions of this section, the Secretary of State may re-estimate the aggregate amount of eligible expenditure estimated under section 191.

(2) He shall first consult such associations of local authorities as appear to him to be concerned.

(3) Then if it appears to him—

(a) that after that amount was estimated for any year, the eligible expenditure of local authorities for that year has been, or is likely to be, substantially increased or decreased by means of changes which have taken place or are likely to take place in the level of the matters specified in section 191(3)(b), and

(b) that inadequate account was taken of those changes when that amount was estimated,

he may re-estimate that amount.

(4) On such re-estimate he may, by an order made in the like manner and subject to the same provisions as a housing support grant order, increase or, as the case may be, decrease the amount fixed by the relevant housing support grant order as the aggregate amount of the housing support grants for that year.

(5) An order made under this section with respect to any year may, as respects that year, vary any matter prescribed by the relevant housing support grant order.

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Modifications etc. (not altering text)

C38 Ss. 191-193: power to exclude conferred (1.11.2001) by 2001 asp 10, **s. 94(1)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

Grants to the Scottish Special Housing Association and other bodies

194 Grants payable to the Scottish Special Housing Association and development corporations.

(1) The Secretary of State may each year make grants, of such amount and subject to such conditions as he may determine, to . . . [F228] development corporations in accordance with the provisions of this section.

(2) Grants under this section shall be payable for any year to . . . [F229] development corporations in respect of the total net annual expenditure (as approved by the Secretary of State and calculated in accordance with rules made by him with the consent of the Treasury) necessarily incurred for that year by . . . [F229] any development corporation—

(a) in providing housing accommodation by—

(i) erecting houses,

(ii) converting any houses or other buildings into houses,

(iii) acquiring houses;

(b) in improving housing accomodation so provided;

(c) in managing and maintaining any housing accommodation so provided or improved;

(d) in improving the amenities of a predominantly residential area;

(e) in providing or converting buildings for use as hostels or as parts of hostels, and in improving, managing and maintaining buildings so provided or converted;

(f) in doing anything ancillary to any of the activities mentioned in paragraphs (a) to (e).

(3) In subsection (2) "improving" includes altering, enlarging or repairing.

Textual Amendments

F228 Words repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, 72(3), Sch. 2 para. 10(a), **Sch. 10**

F229 Words repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, 72(3), Sch. 2 para. 10(b), **Sch. 10**

195 Grants for affording tax relief to Scottish Special Housing Association.

(1) The Secretary of State may, on the application of the Association, make grants to the Association for affording relief from—

(a) income tax (other than income tax which the Association is entitled to deduct on making any payment); and

(b) corporation tax.

Status: *Point in time view as at 30/01/2004.*
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(2) A grant under this section shall be of such amount, shall be made at such times and shall be subject to such conditions as the Secretary of State thinks fit.

(3) The conditions mentioned in subsection (2) may include conditions for securing the repayment in whole or in part of a grant made to the Association in the event of tax in respect of which the grant was made subsequently being found not to be chargeable or in such other events as the Secretary of State may determine.

(4) An application under this section shall be made in such manner and shall be supported by such evidence as the Secretary of State may direct.

(5) The Commissioners of Inland Revenue and their officers may disclose to the Secretary of State such particulars as he may reasonably require for determining whether a grant should be made under this section or whether a grant so made should be repaid or the amount of such grant or repayment.

196 . . . . . F230

Textual Amendments

F230 S. 196 repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, 72(3), Sch. 2 para. 11, **Sch. 10**

197 Financial assistance to voluntary organisations concerned with housing.

(1) The Secretary of State may, with the consent of the Treasury and upon such terms and subject to such conditions as he may determine, give to a voluntary organisation assistance by way of grant or by way of loan, or partly in the one way and partly in the other, for the purpose of enabling or assisting the organisation to provide training or advice, or to undertake research, or for other similar purposes relating to housing.

(2) In this section "voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority or a registered housing association.

Payment of grants

198 Payment of grants and accounting provisions.

(1) Any grant to be paid by the Secretary of State under this Part shall be payable at such times and in such manner as he may determine and subject to such conditions as he may impose.

(2) Without prejudice to the generality of subsection (1), the making of any such payment shall be subject to the making of an application for the payment in such form, and containing such particulars, as the Secretary of State may from time to time determine.

199 Termination of certain exchequer payments to housing authorities.

Schedule 12 shall have effect for the purpose of terminating certain exchequer payments to housing authorities.

Status: *Point in time view as at 30/01/2004.*
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200 . . . . . F231

Textual Amendments

F231 S. 200 repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(3), **Sch. 10**

Payment of subsidies

201 Payment of subsidies and accounting provisions.

(1) Any subsidy to be paid by the Secretary of State under this Part shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise, as the Secretary of State may, with the approval of the Treasury, impose.

(2) Without prejudice to the generality of subsection (1), the making of any such payment shall be subject to the making of a claim for the payment in such form, and containing such particulars, as the Secretary of State may from time to time determine.

(3) The aggregate amount of any one subsidy payable under this Part to a housing authority for any year shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence, or less, and by treating an odd amount exceeding 50 pence as a whole pound.

(4) Subsection (1) applies to Exchequer contributions payable under the enactments specified in Schedule 13 as it applies to subsidies paid under this Part, and Schedule 13 shall have effect for the purposes of this subsection.

(5) Schedule 14 shall have effect for the purposes of specifying such Exchequer contributions as may be reduced, suspended or discontinued under section 202(3).

Secretary of State's power to vary Exchequer contributions

202 Power of Secretary of State to reduce, suspend, discontinue or transfer particular Exchequer contributions.

(1) The Secretary of State may in the circumstances mentioned in subsection (2) reduce the amount of a subsidy to be paid under this Part or suspend or discontinue such payment or part of such payment.

(2) The circumstances are—

(a) where the Secretary of State is satisfied that the local authority has failed to discharge any of their functions;

(b) where the subsidy is payable subject to a condition, and the Secretary of State is satisfied that the condition has not been complied with.

(3) The Secretary of State may, in any of the circumstances mentioned in subsection (5), reduce the amount of any Exchequer contribution being an Exchequer contribution falling to be made under any of the enactments specified in Schedule 14 in respect of a particular subsidised unit, or suspend or discontinue the payment of such Exchequer contributions or part thereof, as he thinks just in those circumstances.

Status: *Point in time view as at 30/01/2004.*
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(4) Where an Exchequer contribution is made to a local authority in respect of a subsidised unit in relation to which an annual grant is payable by the authority to a development corporation or a housing association, then, if the amount of the Exchequer contribution is reduced or the payment of the Exchequer contribution or part of it is suspended or discontinued under this section, the authority may reduce the annual grant to a corresponding or any less extent or suspend the payment thereof, for a corresponding period or discontinue the payment, or of a corresponding part, as the case may be.

(5) The circumstances referred to in subsection (3) are—

(a) that the Exchequer contribution is to be made to a local authority and the Secretary of State is satisfied that the authority have failed to discharge any of their duties under this Act or that they have failed to exercise any power mentioned therein in any case where any such power ought to have been exercised;

(b) that the Exchequer contributions fall to be made or the subsidy falls to be paid subject to any conditions and the Secretary of State is satisified that any of those conditions has not been complied with;

(c) that the subsidised unit has been converted, demolished or destroyed;

(d) that the subsidised unit is not fit to be used or has ceased to be used for the purpose for which it was intended;

(e) that the subsidised unit has been sold or has been leased for a stipulated duration exceeding 12 months;

(f) that the subsidised unit has been transferred, whether by sale or otherwise.

(6) Where the Secretary of State's power under this section to discontinue the payment of the whole or part of any Exchequer contributions to be made to a recipient authority in respect of a particular subsidised unit becomes exercisable in the circumstances mentioned in paragraph (e) or paragraph (f) of subsection (5) and the subsidised unit has become vested in or has been leased to another recipient authority, then, if the Secretary of State exercised that power he may make to that other authority Exchequer contributions of the like amount as he would otherwise have made to the first-mentioned authority if the conditions subject to which the first-mentioned Exchequer contributions fell to be made had been complied with.

(7) In this section—

"recipient authority" means a local authority, a development corporation **[**[F232]or a housing association**]**.

"the subsidised unit" means the house, hostel or other land in respect of which Exchequer contributions fall to be made, whether they fall to be made in respect of it or its site or in respect of land comprising it or in respect of the cost of any houses, or the acquisition of any land, comprising it.

Textual Amendments

F232 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 12**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART X

HOUSING ACCOUNTS OF LOCAL AUTHORITIES

203 The housing revenue account.

(1) A local authority shall keep a housing revenue account of the income and expenditure of the authority for each year in respect of the houses, buildings and land specified in Part I of Schedule 15, and Part I shall have effect for that purpose.

(2) A local authority may, with the consent of the Secretary of State, include in or exclude from the housing revenue account any individual house or other property or categories of houses or other properties.

(3) The Secretary of State may make a direction either generally or in relation to specified properties that any category of house or other properties shall be included in or excluded from the housing revenue account of a local authority.

(4) The land in respect of which the local authority are required by subsection (1) to keep a housing revenue account shall not include any land which the local authority have provided expressly for sale for development by another person.

(5) Part II of Schedule 15 shall have effect in relation to the operation of the housing revenue account.

(6) The Secretary of State may, as respects any year, after consultation with such associations of local authorities as appear to him to be concerned, by order amend Schedule 15.

(7) An order under subsection (6) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)
C39 S. 203(1): power to exclude conferred (1.11.2001) by 2001 asp 10, **s. 94(2)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

204 Power of Secretary of State to limit estimated rate fund contributions to housing revenue account.

(1) The Secretary of State may by order impose, as respects a local authority or class thereof specified in the order, a limit to the amount of contribution out of their general fund which the authority or, as the case may be, an authority of the class may estimate that they will carry to the credit of their housing revenue account for the year specified in the order; and it shall be the duty of the local authority so to estimate that amount as not to exceed that limit.

(2) The limit referred to in subsection (1) may be expressed in whatever way the Secretary of State thinks fit.

(3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Every local authority shall submit to the Secretary of State an estimate of the income and expenditure an account of which they are obliged, under section 203, to keep in their housing revenue account for the year next following.

(5) In subsection (1), "general fund" means the fund maintained by a local authority under section 93 of the [M43]Local Government (Scotland) Act 1973.

Marginal Citations
M43 1973 c. 65.

205 The rent rebate account.

(1) A local authority shall keep a rent rebate account for each year.

(2) The authority shall—

(a) credit that account with the amount of rent rebate subsidy payable to them under section 32 of the [M44]Social Security and Housing Benefits Act 1982;

(b) debit that account with—

(i) the amount of the authority's rent rebates for the year, and

(ii) the authority's costs of administering their rent rebates for the year.

(3) Where for any year a deficit is shown in the account, the local authority shall credit the account in respect of that year with an amount equal to the amount of the deficit.

Marginal Citations
M44 1982 c.24.

206 The rent allowance account.

(1) A local authority shall keep a rent allowance account for each year.

(2) The authority shall—

(a) credit that account with the amount of rent allowance subsidy payable to them under section 32 of the Social Security and Housing Benefits Act 1982;

(b) debit that account with—

(i) the amount of the authority's rent allowances for the year, and

(ii) the authority's costs of administering their rent allowances for the year.

(3) Where for any year a deficit is shown in the account, the local authority shall credit the account in respect of that year with the amount of the deficit.

207 The slum clearance revenue account.

(1) A local authority shall keep a slum clearance revenue account for each year.

(2) That account shall include—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the income and expenditure of the authority in respect of houses and other property acquired by them, or appropriated, for the purposes of Parts IV, V or VI other than houses acquired under Part IV for the purpose of bringing it or another house up to the tolerable standard; and

[F233(b) such of the expenditure of the authority in respect of houses and other property, being expenditure not included in paragraph (a), together with any income related to that expenditure as may be approved by the Secretary of State and falls within any of the following categories—

(i) any payment under section 308 (payments to certain owner-occupiers and others in respect of houses not meeting tolerable standard which are purchased or demolished) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard;

(ii) any payment under section 304 (payments in respect of well-maintained houses) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard;

(iii) any payment under section 234(5) or (6) (payment of removal and other allowances to person displaced);

(iv) such other expenditure as the Secretary of State may direct.**]**

(3) Schedule 16 shall have effect in relation to the slum clearance revenue account.

Textual Amendments

F233 S. 207(2)(b) substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 17**

208 Application of receipts from disposal of certain land.

(1) Any money received by a local authority from the disposal of land to which this section applies shall be applied for a purpose for which the land which was the subject of the transaction was held.

(2) Subsection (1) shall not have effect if the Secretary of State approves the money being applied for another purpose **[**F234or has made directions under section 13(3)**]**.

(3) Subsection (1) applies to land in respect of which income and expenditure is accounted for—

(a) in the housing revenue account, or

(b) in the slum clearance account.

Textual Amendments

F234 Words inserted (*retrospectively* 9.6.1988) by Housing Act 1988 (c. 50, SIF 61), **s. 132(6)(8)**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

209 Adjustment of accounts on appropriation of land.

(1) Where land is appropriated by a local authority for the purposes of Parts I or V or on the discontinuance of use for those purposes, such adjustment shall be made in the accounts of the local authority as the Secretary of State may direct.

(2) Any direction under this section may be either a general direction or a direction for any particular case.

(3) Where this section applies, section 25 of the [M45]Town and Country Planning (Scotland) Act 1959 (which also relates to the adjustment of accounts on appropriation of land) shall not apply.

Marginal Citations
M45 1959 c. 70.

PART XI

RENTS AND SERVICE CHARGES

210 Rents for public sector housing.

(1) Subject to the provisions of this section, a local authority may charge such reasonable rents as they may determine for the tenancy or occupation of houses provided by them.

(2) A local authority shall from time to time review such rents and make such charges either of rents generally or of particular rents as circumstances may require.

(3) In determining standard rents to which their housing revenue account relates, a local authority shall take no account of the personal circumstances of the tenants.

211 Service charges.

(1) A local authority shall make a service charge for each year of such amount as they think reasonable in all the circumstances in respect of the following items to which the housing revenue account relates—

(a) any garage, car-port or other car parking facilities provided by them in so far as not included within the terms of the tenancy of a house;

(b) any service provided by them under the terms of the tenancy of a house;

(c) any other item made available under section 3 or 5 or supplied under section 4 for which a charge was made in the financial year 1971-2 under section 139 to 141 of the Act of 1966 and which has continued to be made available or supplied after that year.

(2) The Secretary of State may direct in relation to any service provided under paragraph (b) of subsection (1) either generally or in a particular case that no such service charge shall be made.

(3) Before making any such direction the Secretary of State shall consult—

(a) such associations of local authorities as appear to him to be concerned;

(b) any local authority with whom consultation appears to him to be desirable.

Status: *Point in time view as at 30/01/2004.*
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212 Rent increase notice.

(1) Where an authority lets a house held by it for housing purposes to a tenant it shall be an implied term of the tenancy that the rent or any other charge payable to the authority under the tenancy may be increased by notice ("rent increase notice") without the tenancy being terminated.

(2) A rent increase notice shall—

(a) be in writing;

(b) specify the increased rent and the date on which it has effect;

(c) be given to the tenant at least 4 weeks before it has effect;

(d) inform the tenant of his right to terminate the tenancy and of the steps to be taken if he wishes to do so;

(e) inform him of the dates by which the notice of removal under section 213 must be received and the tenancy terminated if the increase is not to have effect.

(3) A rent increase notice given in accordance with this section shall have effect unless a removal notice is given in accordance with section 213.

(4) For the purposes of this section an authority is—

(a) a **[**F235local authority**]**;

(b) a joint board or a joint committee;

(c) a development corporation;

(d) the Scottish Special Housing Association;

[F236(e) Scottish Water**]**

(5) This section does not apply to a **[**F237Scottish**]** secure tenancy.

Textual Amendments

F235 Words in s. 212(4)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(5)(a)**; S.I. 1996/323, **art. 4**

F236 S. 212(4)(e) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)

F237 Word in s. 212(5) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(21)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

213 Removal notice.

(1) A tenant who has been given a rent increase notice may give the authority a removal notice terminating the tenancy.

(2) The removal notice shall have effect to terminate the tenancy if—

(a) it is given within 2 weeks of the date on which the rent increase notice was given, or such longer period as the notice may specify;

(b) it specifies a date for the termination of the tenancy within 4 weeks after the date on which it is given.

(3) Nothing in the terms of the tenancy (express or implied) shall prevent a tenant giving a removal notice that complies with subsection (2).

Status: *Point in time view as at 30/01/2004.*
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PART XII

HOUSE LOANS AND OTHER FINANCIAL ASSISTANCE

House loans: general

214 Power of local authority to make advances for the purpose of increasing housing accommodation.

(1) A local authority may advance money to any 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

(e) subject to subsection (4), facilitating the repayment by means of the advance of the amount outstanding on a previous loan made for any of the purposes specified in paragraphs (a) to (d).

(2) The authority may make advances whether or not the houses or buildings are in the authority's area.

(3) In determining whether to advance money under subsection (1), the local authority shall have regard to any advice which may be given from time to time by the Secretary of State.

(4) An advance shall not be made for the purpose specified in paragraph (e) of subsection (1) unless the local authority satisfy themselves that the primary effect of the advance will be to meet the housing needs of the applicant by enabling him either to retain an interest in the house concerned or to carry out such works in relation to that house as would be eligible for an advance by virtue of paragraph (c) or (d) of that subsection.

(5) An advance under this section may be made in addition to assistance given by the local authority in respect of the same house under any other Act or any other provision of this Act.

(6) If it appears to a local authority that the principal effect of the making of an advance under subsection (1) in respect of any premises would be to meet the housing needs of the applicant, they may make the advance notwithstanding that it is intended that some part of the premises will be used or, as the case may be, will continue to be used, otherwise than as a house, and accordingly where, by virtue of this subsection, a local authority propose to make an advance in respect of any premises, the premises shall be treated for the purposes of subsections (1) to (4) as, or as a building to be converted into, a house.

(7) In this section any reference to a house includes a reference to any part share of it.

(8) Schedule 17 shall have effect in relation to the terms of an advance under this section.

F238(9) . . . . . .

Status: *Point in time view as at 30/01/2004.*
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Textual Amendments

F238 S. 214(9) repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(22)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

215 Requirements as to meeting tolerable standard.

(1) Before advancing money under section 214 for the purpose of acquiring a house, the local authority shall satisfy themselves that the house to be acquired will meet the tolerable standard.

(2) Before advancing money under this section for any of the purposes specified in paragraphs (b) to (d) of subsection (1), the authority shall satisfy themselves that the house to be constructed, altered, enlarged, repaired, improved or into which the building is to be converted, as the case may be, will, when the construction, alteration, enlargement, repair, improvement or conversion has been completed, meet that standard.

House loans: special cases

F239 216 . . . . . .

Textual Amendments

F239 S. 216 repealed (30.9.2002) by 2001 asp 10, **s. 51(3)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

217 Duty of local authorities to offer loans to meet expenses of improvement of houses in housing action areas.

(1) Where the owner or the lessee of a house situated in a housing action area is willing to carry out improvement works which are, in the opinion of the local authority, required in order to bring the house up to the standard specified under section 90(3) or by virtue of section 91(3), he may, not later than 9 months from the date of publication and service of a notice of a final resolution passed under Part I of Schedule 8, apply to the local authority for a loan.

(2) Subject to this section, if the local authority are satisfied that the applicant can reasonably be expected to meet obligations assumed by him in pursuance of this section in respect of a loan of the amount of the expenditure to which the application relates, the authority shall offer to make a loan of that amount to the applicant, the loan to be secured to the authority by a standard security over the premises consisting of or comprising the house.

(3) Subject to this section, if the local authority are not so satisfied, but consider that the applicant can reasonably be expected to meet obligations assumed by him in pursuance of this section in respect of a loan of a smaller amount, the authority may, if they think fit, offer to make a loan of that smaller amount to the applicant, the loan to be secured as aforesaid.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Any offer made by the local authority under this section shall contain a condition to the effect that, if an improvement grant or a repairs grant becomes payable under Part XIII in respect of the expenditure to which the application under this section relates, the authority shall not be required to lend a sum greater than the amount of the expenditure to which the application relates after deduction of the amount of the grant.

(5) The local authority shall not make an offer under the foregoing provisions of this section unless they are satisfied that—

(a) the applicant's estate or interest in the house amounts to ownership or a lease for a period which will not expire before the date for final repayment of the loan, and

(b) according to a valuation made on behalf of the local authority, the amount of the principal of the loan does not exceed the value which it is estimated the subjects comprised in the security will bear after improvement of the house or houses to the standard specified under section 90(3) or by virtue of section 91(3).

(6) The rate of interest payable on a loan under this section shall be a variable rate calculated under section 219.

(7) Subject to this section, the loan offered by the local authority under this section shall be subject to such reasonable terms as the authority may specify in their offer.

(8) The local authority's offer may in particular include any such terms as are described in paragraphs 4 to 7 of Schedule 17 (repayment of principal and interest) and provision for the advance being made by instalments from time to time as the works of improvement progress.

(9) Where an improvement grant or repairs grant is payable partly in respect of expenditure to which the application under this section relates, and partly in respect of other expenditure, the reference in subsection (4) to an improvement grant or repairs grant shall be taken as a reference to the part of the grant which in the opinion of the local authority is attributable to the expenditure to which the application under this section relates.

218 Duty of local authority to offer loans to meet expenses of repairs.

(1) Where the person having control of a house is willing to carry out the works necessary to rectify the defects specified in the notice under section 108(2), he may, not later than 21 days from the date of service of the said notice, or from the date of determination of any appeal, apply to the local authority for a loan.

(2) Subsections (2) to (8) of section 217 shall apply for the purposes of this section as they apply for the purposes of that section, but as if in subsection (5)(b) for the words from "improvement" to the end there were substituted the words "the works necessary to rectify the defects specified in the repair notice have been executed.".

Rates of interest on home loans

219 Local authority home loan interest rates.

(1) Subject to subsections (2) and (3)—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) any advance of money under a power conferred by section 214 or under any other power to make loans for the like purposes; and

(b) any sum secured under any arrangement by which the price or part of the price of a house sold by a local authority is secured by a standard security; and

(c) any sum secured under any security which is taken over by a local authority under a power conferred by section 229 (local authority indemnities for building societies, etc.),

is a variable interest home loan for the purposes of this section.

(2) This section does not apply to an advance made before 3rd October 1980 or to a sum secured in respect of the price of a house agreed to be sold before then or (where subsection 1(c) applies) to a security granted before then.

(3) This section shall not apply to an advance made in implement of a contract constituted by an offer of advance made before that date and an unqualified acceptance of that offer thereafter.

(4) Subject to section 220, a local authority shall, in respect of their variable interest home loans, charge a rate of interest which shall be equal to whichever is the higher of the following—

(a) the standard rate for the time being, as declared by the Secretary of State in accordance with subsection (5);

(b) the locally determined rate calculated in accordance with subsection (6).

(5) In considering what rate to declare as the standard rate for the purposes of subsection (4), the Secretary of State shall take into account interest rates charged by building societies in the United Kingdom and any movement in those rates.

(6) The locally determined rate for the purposes of this section shall be the rate which is necessary to service loan charges on money which is to be applied to making variable interest home loans during the relevant period of six months (referred to in subsection (7)), together with the addition of one quarter per cent. to cover the administration cost of making and managing variable interest home loans.

(7) The locally determined rate, for the purposes of this section, shall be determined by each local authority for the period of 6 months not less than one month before the beginning of the relevant period.

(8) Nothing in this or the following two sections shall affect the operation of section 223(1)(b) (under which a part of certain loans may be free of interest for up to 5 years).

Modifications etc. (not altering text)
C40 S. 219 excluded by Local Government Act 1988 (c. 9, SIF 81:1), **s. 24(4)**

220 Variation of rate by local authority.

(1) Where the declaration of a new standard rate or, as the case may be, the determination of a new locally determined rate, affects the rate of interest chargeable under section 219 by a local authority the authority shall, as soon as practicable after such declaration or determination, serve in respect of each of its variable interest home loans a notice on the borrower which shall, as from the appropriate day—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) vary the rate of interest payable by him; and

(b) where, as the result of the variation, the amount outstanding under the advance or security would increase if the periodic repayments were not increased, increase the amount of the periodic repayments to such an amount as will ensure that the said outstanding amount will not increase.

(2) In subsection (1), "the appropriate day" means such day as shall be specified in the notice, being—

(a) in the case of a new standard rate, a day not less than 2 weeks, nor more than 6 weeks, after service of the notice; and

(b) in the case of a new locally determined rate, the first day of the relevant period of 6 months.

221 Variation of rate by Secretary of State.

—Notwithstanding anything contained in sections 219 and 220, but subject to section 230, the Secretary of State may, where he considers that the interest rate charged by a local authority does not satisfy the requirements of section 219(4), direct a local authority—

(a) to charge an interest rate specified in the direction; and

(b) to vary the rate in accordance with the provisions of section 220.

Assistance for first-time buyers

222 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)

C41 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

223 Forms of assistance and qualifying conditions.

(1) Assistance under section 222 (assistance for first-time buyers) may be given in the following ways—

Status: *Point in time view as at 30/01/2004.*
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(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 5 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 2 years preceding the date of his application for assistance,

(b) that throughout the 12 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)

C42 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

C43 S. 223(3) amended by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(3)(a)**

224 Recognised lending institutions.

(1) The lending institutions recognised for the purposes of section 222 (assistance for first-time buyers) are—

building societies,

local authorities,

development corporations,

Status: *Point in time view as at 30/01/2004.*
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The Scottish Special Housing Association,
banks,
insurance companies, and
friendly societies.

(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.

Modifications etc. (not altering text)

C44 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

225 Recognised savings institutions.

(1) The savings institutions recognised for the purposes of section 223 (qualifying conditions as to savings) are—

building societies,
local authorities,
banks,
friendly societies,
the Director of Savings, and
the Post Office,

and savings institutions recognised for the purposes of the corresponding provisions in force in England or Wales or Northern Ireland.

In this section and in section 227 those corresponding provisions are—

(a) in relation to England and Wales, sections 445 to 449 of the [M46]Housing Act 1985;

(b) in relation to Northern Ireland, Part IX of the [M47]Housing (Northern Ireland) Order 1981.

(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.

Modifications etc. (not altering text)

C45 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M46 1985 c. 68.

M47 S.I.1981/156 (N.I.3).

226 Terms of advances and administration.

(1) Advances to lending institutions under section 222 (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;

(b) the method of determining the loan value of property for the purpose of section 223(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 223(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 idemnify the institutions in respect of loss suffered in cases where assistance has been given.

Modifications etc. (not altering text)

C46 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

227 Modifications of building society law and disapplication of provisions of the Restrictive Trade Practices Act 1976 in relation to assistance for first-time buyers.

(1) So much of an advance by a building society which is partly financed under section 222 (assistance for first-time buyers) or the corresponding English 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

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(b) the classification of the advance, or any such further advance, for the purposes of Part III of the [M48]Building Societies Act 1986.

[[F240](2) Section 16(3) and (5) of the [M49]Restrictive Trade Practices Act 1976 (recommendations by service supply associations to members) shall not apply to recommendations made to lending institutions and savings institutions about the manner of implementing sections 222 to 226 (assistance for first-time buyers) or the corresponding English 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 Environment for Northern Ireland, which may be withdrawn at any time on one month's notice.**]**

Textual Amendments
F240 S. 227: By S.I. 2000/311, **art. 44(2)** it is provided (1.3.2000) that s. 227(2)(b) is repealed

Modifications etc. (not altering text)
C47 Ss. 222–227: power to amend or repeal conferred by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 171(b)(2)**

Marginal Citations
M48 1986 c. 53.
M49 1976 c. 34.

[F241]**228** . . . . . .

Textual Amendments
F241 S. 228 repealed (1.3.2000) by S.I. 2000/311, **arts. 1**, 44(3)

Other assistance

229 Local authority indemnities for building societies, etc.

(1) A local authority may, with the approval of the Secretary of State, enter into an agreement with a building society or recognised body under which the authority binds itself to indemnify the building society or recognised body in respect of—

(a) the whole or any part of any outstanding indebtedness of a borrower; and

(b) loss or expense to the building society or recognised body resulting from the failure of the borrower duly to perform any obligation imposed on him by a heritable security.

(2) The agreement may also, where the borrower is made party to it, enable or require the authority in specified circumstances to take an assignation of the rights and liabilities of the building society or recognised body under the heritable security.

(3) Approval of the Secretary of State under subsection (1) may be given generally in relation to agreements which satisfy specified requirements, or in relation to individual agreements, and with or without conditions, as he thinks fit, and such approval may be withdrawn at any time on one month's notice.

Status: *Point in time view as at 30/01/2004.*
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(4) Before issuing any general approval under subsection (1) the Secretary of State shall consult with such bodies as appear to him to be representative of local authorities, and of building societies, and also with the **[**[F242]Financial Services Authority**]**.

[F243](5) . . . . . .

(6) In this section "recognised body" means a body designated, or of a class or description designated, in an order under this subsection made by statutory instrument by the Secretary of State with the consent of the Treasury.

(7) Before making an order under subsection (6) varying or revoking an order previously so made, the Secretary of State shall give an opportunity for representations to be made on behalf of a recognised body which, if the order were made, would cease to be such a body.

Textual Amendments

F242 Words in s. 229(4) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 227

F243 S. 229(5) repealed (1.3.2000) by S.I. 2000/311, **arts. 1**, 44(3)

230 Assistance by local authority for acquiring houses in need of repair and improvement.

(1) Notwithstanding any other provision of sections 219, 220 and 221, a local authority may, where the conditions set out in subsection (2) are satisifed, give assistance to a person acquiring a house in need of repair or improvement by making provision for waiving or reducing, for a period ending not later than 5 years after the date of an advance of money of the kind mentioned in section 219(1)(a) or of the granting of a security under an arrangement of the kind mentioned in section 219(1)(b), the interest payable on the sum advanced or remaining outstanding under the security, as the case may be.

(2) The conditions mentioned in subsection (1) are that—

(a) the assistance is given in accordance with a scheme which has been approved by the Secretary of State or which conforms with such requirements as may be specified by the Secretary of State by order made by statutory instrument with the consent of the Treasury; and

(b) the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, works of repair or improvement therein specified.

231 Loans by Public Works Loan Commissioners for provision or improvement of housing accommodation.

(1) The Public Works Loan Commissioners may, subject to the provisions of this section, lend money to any person entitled to any land either as owner or as lessee under a lease of which a period of not less than 50 years remains unexpired at the date of the loan for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses, and any such person may borrow from the Public Works Loan Commissioners such money as may be required for the purposes aforesaid.

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(2) A loan for any of the purposes specified in subsection (1) shall be secured with interest by a heritable security over the land and houses in respect of which that purpose is to be carried out and over such other land and houses, if any, as may be offered as security for the loan.

(3) Any such loan may be made whether the person receiving the loan has or has not power to borrow on bond and disposition in security or otherwise, independently of this Act, but nothing in this Act shall affect any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken or paid up.

(4) The following conditions shall apply in the case of any such loan—

(a) the period for repayment shall not exceed 40 years;

(b) no money shall be lent on the security of any land or houses unless the estate or interest therein proposed to be burdened is either ownership or a lease of which a period of not less than 50 years remains unexpired at the date of the loan;

(c) the money lent shall not exceed such proportion as is hereinafter authorised of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land or houses proposed to be burdened in pursuance of subsection (2); but loans may be made by instalment from time to time as the building of houses or other work on the land so burdened progresses, so, however, that the total loans do not at any time exceed the amount aforesaid; and the heritable security may be granted accordingly to secure such loans so to be made from time to time.

(5) The proportion of such value as aforesaid authorised for the purpose of the loan shall be three-fourths but if the loan exceeds two-thirds of such value, the Public Works Loan Commissioners shall require, in addition to such heritable security as is mentioned in subsection (2), such further security as they may think fit.

233 Power of local authority to assist in provision of separate service water pipes for houses.

(1) A local authority may if they think fit give assistance in respect of the provision of a separate service pipe for a house in their district which has a piped supply of water from a water main, but no separate service pipe.

(2) Subject to this section, the assistance shall be by way of making a grant in respect of all or any part of the expenses incurred in the provision of the separate service pipe.

(3) The reference to expenses in subsection (2) includes, in a case where all or any part of the works required for the provision of the separate service pipe are carried out by **[**[F244]Scottish Water**]** (whether in exercise of default powers or in any other case), a reference to sums payable by the owner of the house, or any other person, to **[**[F244]Scottish Water**]** for carrying out the works.

Textual Amendments

F244 Words in s. 233(3) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para 18(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (with savings in art. 3)

Status: *Point in time view as at 30/01/2004.*
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234 Financial assistance towards tenants' removal expenses.

(1) A local authority shall, in the performance of the functions of management of houses conferred on them by section 17, have power, subject to subsections (2) and (3), in every case where a tenant of a house held by it for housing purposes moves to another house, whether or not that other house is also owned by the local authority—

(a) to pay any expenses of the removal;

(b) where the tenant is purchasing the house, to pay any expenses incurred by him in connection with the purchase other than the purchase price.

(2) Paragraph (b) of subsection (1) shall only apply in a case where a tenant of a house moves to another house of the local authority if that house has never been let.

(3) A local authority may make their payment of expenses in connection with the purchase of a house subject to such conditions as they think fit.

(4) Nothing in this section shall affect the operation of section 34 of the [M50]Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests).

(5) The power conferred on a local authority by subsection (1) to make allowances towards the expenses incurred in removing by persons displaced in consequence of the exercise by the authority of their powers shall include power to make allowances to persons so displaced temporarily in respect of expenses incurred by them in storage of furniture.

(6) Where, as a result of action taken by a local authority under Part IV, the population of the locality is materially decreased, the authority may pay to any person carrying on a retail shop in the locality such reasonable allowance as they may think fit towards any loss which, in their opinion, he will thereby sustain, so, however, that in estimating any such loss they shall have regard to the probable future development of the locality.

Marginal Citations
M50 1973 c. 26.

Contributions to assistance for elderly, etc.

[F245]235 . . . . . .

Textual Amendments
F245 S. 235 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4**

Status: *Point in time view as at 30/01/2004.*
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PART XIII

LOCAL AUTHORITY GRANTS FOR IMPROVEMENT, REPAIR AND CONVERSION

Improvement grants

236 Power of local authorities to make improvement grants.

(1) Subject to the provisions of this Part, a local authority may give assistance by making an improvement grant in respect of—

(a) works required for the provision of houses by the conversion of houses or other buildings;

(b) works required for the improvement of houses.

(2) Subject to subsection (4), in this Part—

(a) "improvement", in relation to a house, includes—

(i) alteration and enlargement, [F246]...

[[F247](ia) replacement of unsafe electrical wiring,

(ib) installation of mains-powered smoke detectors,

(ic) provision of adequate heating systems,

(id) provision of adequate thermal insulation,**]**

(ii) in relation to a house for a disabled occupant, the doing of works required for making it suitable for his accommodation, welfare or employment;

[[F248](iii) in relation to a building in common ownership, the matters specified in subsection (2A);**]**

(b) any reference to works required for the provision or improvement of a house, whether generally or in any particular respect, includes a reference to any works of repair or replacement needed in the opinion of the local authority paying the grant for the purpose of enabling the house to which the improvement relates to attain a good state of repair,

and "improved" shall be construed accordingly.

[[F249](2A) The matters referred to in subsection (2)(a)(iii) are the installation of—

(a) a fire-retardant door at the entrance to each house,

(b) a main door entry-phone system.**]**

(3) In this section—

"disabled occupant" means a disabled person for whose benefit it is proposed to carry out works in respect of which an improvement grant is sought;

"disabled person" **[**[F250]has the same meaning as in the Disability Discrimination Act 1995 (c.50)**]**;

"house for a disabled occupant" means a house which—

(a) is a disabled occupant's only or main residence when an application for an improvement grant in respect of it is made; or

(b) is likely in the opinion of the local authority to become a disabled occupant's only or main residence not later than the expiry of a reasonable period after the completion of the works in respect of which an improvement grant is sought.

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(4) Any reference in this Part to works required for the improvement of a house does not include a reference to works specified in a notice under section 162 (which empowers a local authority to require the provision of means of escape in the case of fire in a house in multiple occupation) or to works required in connection with works so specified.

Textual Amendments

F246 Word in s. 236(2)(a)(i) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(1)(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F247 S. 236(2)(a)(ia)-(id) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(1)(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F248 S. 236(2)(a)(iii) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(1)(c)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F249 S. 236(2A) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(2)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F250 Words in s. 236(3) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(3)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

[F251 236A Power to make improvement grants: further provision

(1) A tenant is not eligible for an improvement grant unless the works in respect of which the grant is sought have, for the period of 2 years preceding the tenant's application, been his responsibility under his lease.

(2) Subsection (1) does not apply if the works are—

(a) for the purpose mentioned in section 236(2)(a)(ii), or

(b) required for the health and safety of the occupants of the house.

(3) The Scottish Ministers may by order modify subsections (2)(a) and (2A) of section 236, either generally or in relation to particular cases or areas.

(4) No such order shall be made unless a draft of the order has been laid before, and approved by resolution of, the Scottish Parliament.]

Textual Amendments

F251 S. 236A inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 96(4)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

237 Form of application.

[F252(1)] An application for an improvement grant shall be in such form as may from time to time be prescribed and shall contain full particulars of—

(a) the works which are proposed to be or are being carried out together with plans and specifications of the works;

(b) the land on which those works are proposed to be or are being carried out; F253...

(c) the expenses (including any professional fees) estimated to be incurred in executing the works, and where the application relates to the provision or improvement of more than one house, the estimate shall specify the

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proportion of the expenses attributable to each house proposed to be provided or improved., **[**F254, and

(d) such other matters, including information on the matters mentioned in section 240A(2)(a), as may be prescribed.**]**

[F255(2) Different forms and different information may be prescribed under subsection (1) for different purposes.

(3) A local authority may require an applicant to provide, within such reasonable period as they may specify, such information as they consider necessary to satisfy themselves that the information in the application form is accurate.

(4) The local authority shall disregard any application from an applicant who fails to comply with such a requirement.**]**

Textual Amendments

F252 S. 237(1): s. 237 renumbered as s. 237(1) (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 97(1)(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F253 Word in s. 237(1)(b) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 97(1)(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F254 S. 237(1)(d) and word inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 97(1)(c)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F255 S. 237(2)-(4) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 97(1)(c)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

[F256237A Offences in relation to applications for improvement grant

(1) A person who—

(a) knowingly or recklessly makes a statement—

(i) in an application for an improvement grant,

(ii) in response to a requirement made under section 237(3),

which is false in a material particular,

(b) fails, without reasonable excuse, to notify the local authority of any change of circumstances material to that person's case, or

(c) fails, without reasonable excuse, to comply with a requirement made under section 237(3),

shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Textual Amendments

F256 S. 237A inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 97(2)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

238 Powers of local authority.

(1) Subject to this Part, a local authority may approve, or refuse to approve, **[**F257an application under section 237**]**.

Status: *Point in time view as at 30/01/2004.*
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(2) If it approves the application, it shall[F258, subject to this Part,] make an improvement grant.

Textual Amendments

F257 Words in s. 238(1) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **Sch. 10 para. 13(23)(a)**; S.S.I. 2003/434, art. 2, Sch. (with arts. 3, 4)

F258 Words in s. 238(2) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(23)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

239 Consent of Secretary of State.

(1) The Secretary of State may give directions to a local authority or to local authorities generally, requiring that an application for an improvement grant or all such applications of any class specified in the directions shall not be approved except with the consent of the Secretary of State and subject to any conditions which he may impose.

(2) It shall be the duty of any local authority to comply with any such directions.

[F259239A Power of Secretary of State to give directions to prevent duplications of grant.

(1) The Secretary of State may, so as to prevent the duplication of the making of grants under this Part in respect of the same works, give directions to—

(a) a local authority; [F260and]

(b) local authorities generally; F261. . .

(c) . . . . . .

as to the circumstances in which they, or any of them, may or may not exercise their powers under this Part [F262or are or are not to perform their duties under this Part].

(2) It shall be the duty F263. . . of any local authority to whom directions have been given to comply with such directions.]

Textual Amendments

F259 S. 239A added by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 2(8)**

F260 Word in s. 239A(1)(a) inserted (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 13(24)(a)(ii)**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to art. 3)

F261 S. 239A(1)(c) and the preceding word "and" repealed (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 13(24)(a)(ii)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. II** (subject to art. 3)

F262 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(1), **Sch. 11 para. 95**

F263 Words in s. 239A(2) repealed (1.11.2001) by 2001 asp 10, s. 113(1), **Sch. 10 para. 13(24)(b)**; S.S.I. 2001/336, art. 2(2), **Sch. Pt. II** (subject to art. 3)

240 Conditions for approval of applications for improvement grant other than applications relating exclusively to the provision of standard amenities.

(1) A local authority shall not approve an application for an improvement grant—

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(a) unless they are satisfied that the owner of every parcel of land on which the improvement works are to be or are being carried out, (other than land proposed to be sold or leased under section **[**F264 12(4)**]**), has consented in writing to the application and to being bound by any conditions imposed by or under section 246;

(b) if the improvement works specified in it have been begun, unless they are satisfied that there were good reasons for beginning the works before the application was approved.

(2) A local authority shall not approve any such application, other than an application to which section 244 (provision of standard amenities) applies—

(a) unless, subject to subsection (6), they are satisfied that—

(i) the house or houses to which the application for an improvement grant relates will provide satisfactory housing accommodation for such period and conform with such requirements with respect to construction and physical condition and the provision of services and amenities as may be specified for the time being for the purposes of this section by the Secretary of State, and

(ii) in a case where the house or houses to which the said application relates is or are comprised in a building containing more than one house, the works to be carried out on the house or houses will not prevent the improvement of any other house in that building;

(b) if the application is in respect of the improvement or conversion of a house provided **[**F265 less than 10 years prior to the date of the making of the application**]**, but the Secretary of State may give directions, either generally or with respect to any particular case, as to the waiving of this provision;

(c) if, subject to subsections (3) to (6), it is made by the owner of the house to which the application relates or by a member of his family and the house or any part thereof is to be occupied by that owner or by a member of his family after completion of the works and—

[F266(i) the range of values for the valuation band in which the occupied premises are listed exceeds the range of values for the prescribed valuation band; or

(ii) if it is to be provided by the conversion of two or more houses, the aggregate of the middle values of the valuation band in which each of those houses is listed exceeds the highest value of the range of values for the prescribed valuation band:**]**

Provided that where sub-paragraph (i) applies, a local authority may approve such an application if it is made in relation to a part of the house which after completion of the works will be self-contained and is not to be occupied by the owner or by a member of his family.

(3) Paragraph (c) of subsection (2) shall not apply—

(a) where the house to which the application relates is in a housing action area for improvement declared under section 90 and is listed in the final resolution under section 92(4)(b) or (c) as requiring improvement or integration;

(b) where the house to which the application relates is subject to an improvement order made under section 88(1);

(c) in relation to an application for an improvement grant for the conversion of a building which does not at the date of the application consist of or include a house; or

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(d) to a house which is to be occupied by a disabled person (as defined in section 236(3)) in so far as the application is in respect of works which his disability renders necessary if the house is to be suitable for his accommodation, welfare or employment.

[F267(4) In paragraph (c) of subsection (2)—

"middle value", in relation to a valuation band, means the amount midway between the amount which values in that range must exceed or in the case of valuation band A nothing, and the amount which they must not exceed;

"prescribed valuation band" means such valuation band as the Secretary of State with the consent of the Treasury may prescribe; and different valuation bands may be so prescribed for different cases and for different classes of cases; and a valuation band so prescribed shall be prescribed by order of the Secretary of State made by statutory instrument which shall be subject to annulment by resolution of either House of Parliament; and

references to a valuation band and a range of values shall be construed in accordance with section 74 of the Local Government Finance Act 1992 F268 and are references to those which apply on the date of the application for grant.

(4A) For the purpose of this section, premises or a house are listed in a particular valuation band if that valuation band is shown as applicable to the premises or house in the valuation list compiled in accordance with Part II of the Local Government Finance Act 1992 or section 26 of the Local Government etc. (Scotland) Act 1994 F269.**]**

(5) The Secretary of State may by order made in a statutory intrument which shall be subject to annulment by resolution of either House of Parliament vary the provisions of paragraph (c) of subsection (2).

(6) The local authority may, with the approval of the Secretary of State, disregard any requirement specified by him under subsection (2)(a)(i) in any case where, in the opinion of the local authority, conformity with that requirement would not be practicable at a reasonable expense.

Textual Amendments

F264 Figure substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 10**

F265 Words in s. 240(2)(b) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 98**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F266 S. 240(2)(c)(i)(ii) substituted (1.4.1996) by S.I. 1996/631, **reg. 2(a)**

F267 S. 240(4)(4A) substituted (1.4.1996) for s. 240(4) by S.I. 1996/631, **reg. 2(b)**

F268 1992 c.14.

F269 1994 c.39.

Modifications etc. (not altering text)

C48 S. 240 continued (1.4.1996) by S.I. 1996/631, **reg. 3**

[F270**240A Assessment of applicant's contribution**

(1) The Scottish Ministers may by regulations make provision for the assessment, in relation to such classes of application for an improvement grant as the regulations

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may specify, of an amount to be treated, for the purposes of section 242(1)(b), as the applicant's contribution towards the approved expense.

(2) Regulations under subsection (1) may provide for assessment to be by reference to—

(a) the income and other financial circumstances of the applicant, the applicant's spouse, any person who lives or intends to live with the applicant and any person on whom the applicant is dependent or who is dependent on the applicant,

(b) such other criteria as the Scottish Ministers think fit,

and may make different provision for different cases or descriptions of case.

(3) Regulations under subsection (1) shall be made by statutory instrument and shall not be made unless a draft has been laid before, and approved by resolution of, the Scottish Parliament.

(4) In this Part—

"the applicant's contribution" means an amount assessed under subsection (1),

"approved expense" means, in relation to works referred to in an application, the amount of the expense of executing those works (as estimated in the application) approved by the local authority as being attributable to each house proposed to be provided or improved.**]**

Textual Amendments

F270 Ss. 240A, 240B inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 99**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

[F271]240B Applicant's contribution: review

(1) Where an applicant for an improvement grant requests a review of an assessment of the applicant's contribution, the local authority to which the application was made shall review the assessment.

(2) A request for a review shall be made before the end of the period of 21 days beginning with the day on which the notice under section 241(1) was given or such longer period as the authority may allow.

(3) A review under subsection (1) shall 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 that assessment.

(4) The authority shall notify the applicant of the decision reached on review.

(5) Notice required to be given to the applicant under subsection (4) shall be given in writing and shall, if not received by him, be treated as having been given only if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

(6) There is no right to request a review of a decision reached on review.

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Textual Amendments

F271 S. 240B inserted (*prosp.*) by 2001 asp 10, **ss. 99**, 113(1)

241 Approval of application for improvement grant.

(1) Where a local authority approve an application made under the provisions of this Part for an improvement grant, they shall notify the applicant and where appropriate, the owner, of

[[F272](a) the approved expense,

(b) the applicant's contribution (where it has been assessed under section 240A),

(c) the amount of the grant (and, where the grant is a minimum percentage grant, a statement of that fact).**]**

(2) In approving an application for an improvement grant a local authority may require as a condition of paying the grant that the improvement works are carried out within such period (which must not be less than a period of 12 months) as the local authority may specify or within such further period as the local authority may allow.

(3) Where a local authority—

(a) refuse an application, or

[[F273](b) approve an application but fix as the approved expense in respect of any house an amount less than the amount of the expense estimated in the application in respect of that house (unless the approved expense is the maximum amount which may be fixed under section 242),**]**

they shall notify the applicant in writing of the grounds of their decision.

Textual Amendments

F272 S. 241(1)(a)-(c) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 100(2)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F273 S. 241(3)(b) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 100(3)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

242 Amount of improvement grant.

[[F274](1) Subject to the following provisions of this section—

(a) the approved expense shall not exceed £20,000, or such other amount as may be prescribed, in respect of each house to which the application relates,

(b) the amount of improvement grant payable shall be—

(i) the approved expense under deduction (where applicable) of the applicant's contribution, or

(ii) where subsection (1A) applies, the amount determined by virtue of that subsection,

whichever is the greater.

(1A) In such cases as the Scottish Ministers may specify in regulations, the amount for the purposes of subsection (1)(b)(ii) shall be such percentage of the approved expense as

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may be so specified; and such regulations may make different provision for different cases or classes of case.

(1B) Where the amount of improvement grant payable is that determined by virtue of subsection (1A), the grant is referred to in this Part as a " minimum percentage grant ".

(1C) Regulations under subsection (1A) shall be made by statutory instrument and shall not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament.**]**

(2) If, after an application for a grant has been approved by a local authority, the authority are satisfied that owing to circumstances beyond the control of the applicant the expense of the works will exceed the estimate contained in the application, they may, on receiving a further estimate, substitute a higher amount as the amount of the approved expense of executing the works, but that amount shall not exceed the maximum authorised by virtue of subsection **[**F275(1)(a)**]**.

F276(3) . . . . . .

(4) If the local authority are satisfied that in any particular case—

(a) there are good reasons for fixing a higher **[**F277approved expense than that which may be fixed **]** by virtue of subsection (1), **[**F278the approved expense**]** may be exceeded by such amount as the Secretary of State may approve; and the approval of the Secretary of State may be given either with respect to a particular case or with respect to a particular class of case;

(b) the expense of executing the works was materially enhanced by measures taken to preserve the architectural or historic interest of the house or building to which the application relates, the amount payable by virtue of subsection (1) may be exceeded by such amount as the Secretary of State may approve.

[F279(5) Subsection (5A) applies in relation to an application for an improvement grant, other than—

(a) an application to which section 244 applies, or

(b) an application in respect of works for the benefit of a disabled occupant within the meaning of section 236(3).

(5A) Where this subsection applies, the maximum approved expense for the purposes of subsection (1)(a) shall be reduced by the total amount of any qualifying grants and assistance in respect of the same house which have been paid or approved for payment within the period of 10 years preceding the date on which the application is determined.

(5B) In subsection (5A), " qualifying grants and assistance " means—

(a) improvement grants, other than—

(i) grants under section 244,

(ii) grants in respect of works for the benefit of a disabled occupant within the meaning of section 236(3), and

(iii) minimum percentage grants,

(b) repairs grants, other than minimum percentage grants, and

(c) assistance under section 42(4) of the Crofters (Scotland) Act 1993 (c.44).**]**

(6) Where by virtue of the making on any occasion of an improvement grant in respect of the improvement of a house, the conditions specified in section **[**F280246**]** are required to be observed with respect to the house before the observance thereof by virtue of the making of an improvement grant on a previous occasion has ceased to be requisite,

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the provisions of sections 246, 247, [F281]...and Schedule 19 shall apply in relation to the house as regards each occasion on which an improvement grant is so made as if it were the only occasion on which it was so made.

[F282](7) . . . . . .

[F282](8) . . . . . .

(9) The maximum approved expense that may be prescribed under subsection (1) [F283]... shall be prescribed by order of the Secretary of State made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) An order under this section may make different provision with respect to different cases or descriptions of case.

Textual Amendments

F274 S. 242(1)-(1C) substituted for s. 242(1) (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 101(2)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F275 Word in s. 242(2) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 101(3)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F276 S. 242(3) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(25)(a)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F277 Words in s. 242(4) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 101(4)(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F278 Words in s. 242(4) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 101(4)(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F279 S. 242(5)-(5B) substituted for s. 242(5) (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 101(5)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F280 Figure substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 11**

F281 Word in s. 242(6) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(25)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F282 S. 242(7)(8) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(25)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F283 Words in s. 242(9) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(25)(d)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

243 Payment of improvement grant.

(1) An improvement grant in respect of the expenses incurred for the purpose of the execution of improvement works shall, subject to the following provisions of this section, be paid—

(a) within one month of the date on which, in the opinion of the local authority, the house first becomes fit for occupation after the completion of the works; or

(b) partly in instalments paid from time to time as the works progress and with a final settlement of the balance within one month of the completion of the works but the aggregate of the instalments paid shall not at any time before the completion of the improvement works exceed 50 per cent., or such other percentage fixed by virtue of [F284]... section **[**[F285]244(7)**]** of the aggregate approved expense of the works executed up to that time.

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(2) The payment of an improvement grant or of an instalment or the balance thereof shall be conditional on the improvement works, or, as the case may be, the part of the works which the local authority consider will entitle the applicant to payment of the instalment or of the balance of the grant, being executed to the satisfaction of the local authority.

(3) Where an instalment of an improvement grant is paid before the completion of the works, and the works are not completed within 12 months of the date of payment of the instalment, then that instalment and any further instalment paid by the local authority on account of the grant shall, on being demanded by the authority, forthwith become payable to them by the person to whom the instalments were paid, and the instalments shall carry interest at such reasonable rate as the local authority may determine from the date on which they were paid by the authority until repaid under this subsection.

Textual Amendments

F284 Words in s. 243(1)(b) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(26)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F285 Figure substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 12**

244 Duty of local authorities to make improvement grants where an application relates exclusively to the provision of standard amenities or to disabled occupant; and amount thereof.

(1) Subject to the provisions of this Part, a local authority shall, where an application in that behalf is made to the local authority, give assistance in respect of the improvement of any house by way of making an improvement grant in respect of the cost of executing works required for the house to be provided with one or more of the standard amenities which it presently lacks, if on completion of the works the house will, in the opinion of the local authority—

(a) be provided with all of the standard amentities for the exclusive use of its occupants; and

(b) meet the tolerable standard.

[[F286](1A) The standard amenities are those amenities referred to in section 86(1)(e), (f) and (fa).

(1B) An order under section 86(2) may amend the reference to the provisions of that section specified in subsection (1A) of this section.**]**

(2) A local authority shall not make an improvement grant under this section in respect of a house comprised in a building containing more than one house, unless they are satisfied that the works carried out on the house will not prevent the improvement of any other house in the building.

(3) Where an application in that behalf is made to a local authority in relation to any house, an improvement grant shall be made under subsection (1) in respect of the cost of executing works required for the house to be provided with a standard amenity, notwithstanding that the house already has such a standard amenity, if in the opinion of the local authority the additional standard amenity to be provided is essential to the needs of a disabled occupant.

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(4) Paragraph (a) of subsection (1) shall not apply where the house in respect of which application for a grant is made is not likely to be available for use as a house for a period of at least 10 years.

(5) Subsection (1) shall not apply in respect of a house which is or forms part of a house or building as regards which the local authority are satisfied that they have power to serve a notice under section 161 (power to require execution of works of descriptions other than work to make good neglect).

F287(6) . . . . . .

(7) The amount of an improvement grant made under this section shall be **[**F288a minimum of **]** 50 per cent. or such other percentage as may be prescribed of the approved expense, F289....

F290(8) . . . . . .

(9) Section 86 shall have effect for determining whether a house meets the tolerable standard for the purposes of subsection (1) as it has effect for determining whether a house meets that standard for the purposes of Part IV.

(10) The Secretary of State may by order—

(a) vary the requirements of subsection (1)(a) and (b);

F291(b) . . . . . .

F292(11) . . . . . .

(12) The percentage of the approved expense that may be prescribed under subsection (7) **[**F293shall be prescribed by order of the Scottish Ministers; and different provision may be made for different cases or descriptions of case.**]**

(13) An order made under subsectionF294...(10)(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(14) An order made under subsection (12) shall be made by statutory instrument and shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

Textual Amendments

F286 S. 244(1A)(1B) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 102(2)(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F287 S. 244(6) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(a)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F288 Words in s. 244(7) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 102(2)(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F289 Words in s. 244(7) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F290 S. 244(8) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F291 S. 244(10)(b) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F292 S. 244(11) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

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F293 Words in s. 244(12) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(d)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F294 Words in s. 244(13) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(27)(e)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

245 Grants restricted to applicant and his personal representatives.

In relation to a grant or an application for a grant, any reference in the preceding provisions of this Part to the applicant shall be construed, in relation to any time after his death, as a reference to his personal representatives.

246 Conditions to be observed with respect to houses in respect of which an improvement grant has been made, and registration thereof.

(1) Where an application for an improvement grant has been approved by a local authority, the provisions of this section shall apply with respect to the house for a period of 5 years beginning with the date on which, in the opinion of the local authority, it first becomes fit for occupation after the completion of the improvement works, and shall, so long as those provisions are required to be so observed, be deemed to be part of the terms of any lease or tenancy of the house and shall be enforced accordingly.

(2) It shall be a condition of the grant that—

(a) the house shall not be used for the purposes other than those of a private dwelling-house, but a house shall not be deemed to be used for the purposes other than those of a private dwelling-house by reason only that part thereof is used as a shop or office, or for business, trade or professional purposes;

(b) the house shall not be occupied by the owner or a member of his family except as his only or main residence within the meaning of **[**F295Part VII of the Taxation of Chargeable Gains Act 1992**]**;

(c) all such steps as are practicable shall be taken to secure the maintenance of the house in a good state of repair.

(3) The owner of the house shall, on being required to do so by the local authority, certify that the conditions specified in subsection (2) are being observed with respect to the house, and any tenant of the house shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with the provisions of this subsection.

(4) A local authority shall not, as a prerequisite of approving a grant, require any conditions or obligations, other than the conditions mentioned in this Part or other statutory obligations to be observed with respect to a house in respect of which an improvement grant has been made under this Part.

(5) The provisions of Schedule 19 shall have effect in the event of a breach of any of the conditions mentioned in this section at a time when they are required to be observed with respect to a house.

(6) Where a local authority pay an improvement grant or, in a case where an improvement grant is payable partly in instalments as the improvement works progress and the balance after the completion of the works in respect of a house, they shall specify in the notice or record mentioned respectively in subsections (7) and (8) the matters specified in subsection (9).

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(7) If subsection (6) applies, the local authority shall, where the applicant for the grant was not a tenant-at-will or was a tenant-at-will who since applying, has acquired his landlord's interest in the tenancy, cause to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be, a notice in such form as may be prescribed.

(8) If subsection (6) applies, the local authority shall, where that applicant was and continues to be a tenant-at-will, keep a written record.

(9) The matters to be specified are—

(a) the conditions mentioned in this section which are required to be observed with respect to the house;

(b) the period for which the conditions are to be observed; and

(c) the provisions of Schedule 19 under which, on a breach of any of the said conditions at a time when they require to be observed, the owner of the house becomes liable to repay to the authority the amount repayable by virtue of that Schedule.

(10) Any expenses incurred under subsection (7) recording the notice in the Register of Sasines or registering it in the Land Register, as the case may be, shall be repaid to the local authority by the applicant.

Textual Amendments

F295 Words in s. 246(2)(b) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(28)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

247 Voluntary repayment of improvement grants.

(1) The owner of a house in respect of the provision or improvement of which an improvement grant has been made or the holder of a heritable security over the house, being a heritable creditor entitled to exercise his power of sale, may, at any time when the conditions specified in section 246 are required to be observed with respect to the house, pay to the local authority the like amount as would become payable to them by virtue of Schedule 19 in the event of a breach of any of the conditions referred to in section 246(2), and on the making of the payment observance with respect to the house of those conditions shall cease to be requisite and the provisions of paragraph **[**[F296]6**]** of the said Schedule shall apply for the purposes of this subsection as they apply for the purposes of that Schedule.

(2) A sum paid under subsection (1) by a heritable creditor shall be treated as part of the sum secured by the heritable security.

Textual Amendments

F296 Word in s. 247(1) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(29)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

Status: *Point in time view as at 30/01/2004.*
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Repairs grants.

248 Repairs grants.

(1) Subject to the provisions of this section, where an application for a repairs grant is duly made a local authority—

(a) shall approve the application in so far as it relates to the execution of works required by a notice under section 108(1) (repair notices); and

(b) in so far as it does not so relate, may approve the application in such circumstances as they think fit.

(2) A local authority shall not approve an application under this section unless they are satisfied that the house to which the application relates will provide satisfactory housing accommodation for such period as they consider reasonable.

F297(3) . . . . . .

F297(4) . . . . . .

(5) Sections 237 to **[**F298243 and 245 to 247**]** shall apply **[**F299in relation to an application for a repairs grant or to**]** a repairs grant as they apply **[**F300in relation to an application for an improvement grant or to**]** an improvement grant, except that for the purposes of the application of section 243(1)(b), **[**F301 the words from "or such other" to "244(7)" are omitted.**]**

(6) References in this section to a house shall, in relation to an application made under this section for a grant in respect of works which are to rectify defects specified in a notice under section 108(1), be construed as including references to premises other than a house; but where such an application relates to such premises—

(a) the local authority shall not, under subsection (2), approve the application unless they are satisfied that the premises form part of a building which contains a house or houses and that house or, as the case may be, all those houses will provide satisfactory housing accommodation as mentioned in that subsection;

F302(b) . . . . . .

(c) subsection (5) shall be construed as if the enactments excepted by that subsection included sections 240(2) to (6), 246(1), (2), (3), and (5) to (10) **[**F303and 247**]**.

F304(7) . . . . . .

F304(8) . . . . . .

F304(9) . . . . . .

F304(10) . . . . . .

F304(11) . . . . . .

Textual Amendments

F297 S. 248(3)(4) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(30)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F298 Words in s. 248(5) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 103(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

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F299 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 6(a)(i)**
F300 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 72(1)**,Sch. 8 para. 6(a)(ii)
F301 Words in s. 248(5) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 103(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)
F302 S. 248(6)(b) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(30)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)
F303 Words added (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 14(b)**
F304 S. 248(7)-(11) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(30)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

Grants for fire escapes

249 Grants for fire escapes for houses in multiple occupation.

(1) Subject to the provisions of this section, where an application for a grant for a **[**F305means of escape from fire**]** in a house in multiple occupation is duly made, a local authority—

(a) shall approve the application in so far as it relates to the execution of works specified in a notice served on any person, other than a public body, under section 162 (which empowers a local authority to require the provision of a means of escape from fire in a house in multiple occupation);

(b) in so far as it is not so specified but is required in connection with works so specified, may approve the application.

(2) A local authority shall not approve an application under this section unless they are satisfied that at the time of completion of the works to which the application relates the house will be in reasonable repair (disregarding the state of internal decorative repair) having regard to its age, character and location.

(3) Where a local authority approve an application under this section they shall determine the maximum amount of expenses which they think proper to be incurred for the relevant works; but**[**F306that amount shall not exceed £20,000 or such other amount as may be prescribed **]**.

[F307(3A) In relation to an application under this section, the maximum amount that may be fixed under subsection (3) shall be reduced by the total amount of any grants under this section in respect of the same house which have been paid within the period of 10 years preceding the date on which the application is determined.**]**

F308(4) . . . . . .

F308(5) . . . . . .

(6) Sections 236 to **[**F309247 (other than sections 240, 241(3)(b), 242(1)(a) **][**F310and (5) to (10)**]** and section 244) shall apply **[**F311in relation to an application for a grant under subsection (1) or to**]** a grant under subsection (1) as they apply **[**F312in relation to an application for an improvement grant or to**]** an improvement grant, except that

[F313(a) references to the approved expense shall be treated as references to the maximum amount of expenses determined under subsection (3), and

(b)**]** for the purposes of the application of section 243(1)(b), **[**F314the words from "or such other" to "244(7)" are omitted.**]**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) In subsection (1), "public body" means a regional, islands or district council or such other body as the Secretary of State may by order made by statutory instrument specify.

(8) The maximum amount of expenses prescribed under subsection (3)[F315]...shall be prescribed by order of the Secretary of State made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[F316](9) . . . . . .

[F316](10) . . . . . .

[[F317](11) An order under this section may make different provision with respect to different cases or descriptions of case.**]**

Textual Amendments

F305 Words in s. 249(1) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(2)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F306 Words in s. 249(3) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(3)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F307 S. 249(3A) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(4)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F308 S. 249(4)(5) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(31)(a)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F309 Words in s. 249(6) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(5)(a)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F310 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 15(a)**

F311 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 7(a)(i)**

F312 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 7(a)(ii)**

F313 Words in s. 249(6) inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(5)(b)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F314 Words in s. 249(6) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 104(5)(c)**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F315 Words in s. 249(8) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(31)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F316 S. 249(9)(10) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(31)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F317 S. 249(11) added by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 8 para. 7(b)**

Grants for houses in housing action areas

250 Application of this Part to houses situated in a housing action area and power of local authority to give repairs grants in such areas and amount thereof.

(1) The provisions of this Part shall apply to houses which are to be brought up to the standard specified by a local authority under section 90 or 91 and which are situated in housing action areas for improvement or for demolition and improvement within the meaning of Part IV, but subject to the modifications contained in subsections **[**[F318](6) and**]** (7) below.

[F319](2) . . . . . .

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F319(3) . . . . . .

F319(4) . . . . . .

F319(5) . . . . . .

(6) Sections 238(1), in so far as it relates to refusal to approve an application, and 244 shall not apply, but a local authority shall make an improvement grant to an owner of a house situated in a housing action area as aforesaid in respect of such improvement works as may, in their opinion, be required for the house to be brought up to the standard specified by the local authority in a resolution passed under section 90 or 91 in relation to that area:

Provided that an improvement grant shall not be made in pursuance of this subsection in respect of a house which is comprised in a building containing more than one house, if the local authority are of the opinion that the improvement works to be carried out on that house would prevent any other house in that building from being brought up to the standard specified as aforesaid.

(7) In section 248—

(a) for subsections (1) and (2) there shall be substituted the following subsections—

"(1) Subject to the following provisions of this section, where an application for a repairs grant is duly made, a local authority shall approve the application in so far as it relates to the execution of works to houses to which the provisions of this Part are applied by section 250(1).

(2) A local authority shall not approve an application under this section unless on completion of the works the house will attain the standard specified in the resolution passed under section 90 or 91.";

F320(b) . . . . . .

F320(c) . . . . . .

Textual Amendments

F318 Words in s. 250(1) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(32)(a)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F319 S. 250(2)-(5) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(32)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F320 S. 250(7)(b)(c) repealed (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(32)(b)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

*I*F321 *Improvement of energy efficiency and safety*

Textual Amendments

F321 S. 250A and cross-heading inserted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), **ss. 105**, 113(1); S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F322]250A Encouragement of works to improve energy efficiency and safety

(1) This section applies where, in relation to a house—

(a) an application for an improvement grant or a repairs grant has been made,

(b) on completion of the work to which the application relates, the house will—

(i) meet the tolerable standard, and

(ii) be in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house, and

(c) the works specified in subsection (2), or any of them, are required for the improvement of the house.

(2) Those works are—

(a) in any case—

(i) replacement of unsafe electrical wiring,

(ii) installation of mains-powered smoke detectors,

(iii) provision of adequate thermal insulation,

(b) in the case of a building in common ownership, installation of—

(i) a fire-retardant door at the entry to each house,

(ii) a main door entry-phone system.

(3) Where this section applies, the local authority may invite the applicant to make an improvement grant application (or, as the case may be, a further application) in respect of the works specified in subsection (2).**]**

Textual Amendments

F322 S. 250A and cross-heading inserted (*prosp.*) by 2001 asp 10, **ss. 105**, 113(1)

Improvement of amenity grants

251 Powers of local authority for improvement of amenities.

(1) For the purpose of securing the improvement of the amenities of a predominantly residential area within their district, a local authority may—

(a) carry out any works on land owned by them and assist (whether by grants or loans or otherwise) in the carrying out of any works on land not owned by them;

(b) with the agreement of the owner of any land, carry out or arrange for the carrying out of works on that land at his expense, or at the expense of the local authority, or in part at the expense of both;

(c) acquire any land by agreement;

and may be authorised by the Secretary of State to purchase any land compulsorily.

(2) The [M51]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to a compulsory purchase of land under subsection (1) as if that subsection had been in force immediately before the commencement of **[**[F323]that**]** Act.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F323 Word in s. 251(2) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(33)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

Marginal Citations

M51 1947 c. 42.

Grants for thermal insulation

F324252 . . . . . .

Textual Amendments

F324 Ss. 252, 253 repealed (9.6.1997) by Social Security Act 1990 (c. 27, SIF 113:1), ss. 15(11), 21(2), **Sch. 7**; S.I. 1997/1370, **art. 2**

F325253 . . . . . .

Textual Amendments

F325 Ss. 252, 253 repealed (9.6.1997) by Social Security Act 1990 (c. 27, SIF 113:1), ss. 15(11), 21(2), **Sch. 7**; S.I. 1997/1370, **art. 2**

254, 255. . . . . F326

Textual Amendments

F326 Ss. 254, 255 repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(3), **Sch. 10**

Agricultural tenants, etc.

256 Application of this Part to agricultural tenants, etc.

(1) For the purposes of the provisions of this Part, a tenant, crofter, landholder or statutory small tenant shall be deemed to be the owner of any house, building or other land on his farm, croft or holding if in respect of the execution thereon of improvement works he would, on the termination of his tenancy, be entitled to compensation under **[**F327the Agricultural Holdings (Scotland) Act 1991 or the Agricultural Holdings (Scotland) Act 2003 (asp 11) (as the case may be)**]** or the **[**F328Crofters (Scotland) Act 1993 (c.44)**]** or the Small Landholders (Scotland) Acts, 1886 to 1931 (as the case may be) as for an improvement.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Where by virtue of subsection (1) an improvement grant or a repairs grant is made to a crofter, a landholder or a statutory small tenant in respect of a house on his croft or holding, the local authority shall forthwith intimate to the landlord of the croft or holding that an improvement grant or a repairs grant has been so made, and shall inform him of the amount thereof.

(3) If at any time within the period during which conditions are required by section 246 to be observed with respect to a house provided on a farm, croft or holding otherwise than by the landlord thereof, compensation becomes payable in respect of the house, or of any improvement works executed in relation thereto, as for an improvement under **[**[F327]the Agricultural Holdings (Scotland) Act 1991 or the Agricultural Holdings (Scotland) Act 2003 (asp 11) (as the case may be)**]** or the **[**[F328]Crofters (Scotland) Act 1993 (c.44)**]** or the Small Landholders (Scotland) Acts 1886 to 1931 (as the case may be), so much of the value of the house or works as is attributable to the sum paid by way of improvement grant or repairs grant, shall be taken into account in assessing the compensation so payable and shall be deducted therefrom.

(4) The landlord of a farm, croft or holding on which there is a house with respect to which conditions are for the time being required to be observed by virtue of section 246, shall not at any time within the period during which those conditions are so required to be observed be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the house, or of any improvement works executed in relation thereto, as is attributable to the sum paid by way of improvement grant or repairs grant.

Textual Amendments

F327 Words in s. 256 substituted (27.11.2003) by Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 10(a)**

F328 Words in s. 256(1)(3) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(34)(a)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

[[F329]256A Application of this Part to the Scottish Ministers

Any power of a local authority to make grants, and any function of a local authority in relation to the making of grants, under this Part is exercisable by the Scottish Ministers as it is by the local authority.**]**

Textual Amendments

F329 S. 256A substituted (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 13(35)**; S.I. 2001/336, art. 2(2), **Sch. Pt. II** Table (subject to art. 3)

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART XIV

ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

Eligibility for assistance

257 Designation of defective dwellings by Secretary of State.

(1) The Secretary of State may designate as a class any buildings each of which consists of or includes one or more dwellings if it appears to him that—

(a) buildings in the proposed class are defective by reason of their design or construction, and

(b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) A dwelling which is, or is included in a building in a class so designated is referred to in this Part as a "defective dwelling"; and in this Part in relation to such a dwelling—

(a) "the qualifying defect" means what, in the opinion of the Secretary of State, is wrong with the buildings in that class; and

(b) "the cut-off date" means the date by which, in the opinion of the Secretary of State, the circumstances mentioned in subsection (1)(a) became generally known.

(3) A designation shall describe the qualifying defect and specify—

(a) the cut-off date,

(b) the date (being a date on or after the cut-off date) on which the designation is to come into operation,

(c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.

(4) A designated class shall not be described by reference to the area in which the buildings concerned are situated.

(5) Notice of a designation shall be published in the Edinburgh Gazette.

(6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the Secretary of State.

258 Variation or revocation of designation.

(1) The Secretary of State may—

(a) vary a designation under section 257, but not so as to vary the cut-off date, or

(b) revoke such a designation.

(2) The Secretary of State may by a variation of the designation extend the period referred to in section 257(3)(c) (period within which assistance must be applied for) whether or not it has expired.

(3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and an application for assistance under this Part has been made.

Status: *Point in time view as at 30/01/2004.*
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(4) Notice of the variation or revocation of a designation shall be published in the Edinburgh Gazette.

259 Conditions of eligibility.

(1) Subject to the following provisions of this Part, a person to whom this section applies is eligible for assistance in respect of a defective dwelling for the purposes of this Part if—

(a) his interest in the dwelling is that of owner ("the owner's interest"), and

(b) one of the following sets of conditions is satisfied.

(2) This section applies to—

(a) an individual who is not a trustee,

(b) trustees, if all the beneficiaries are individuals, and

(c) personal representatives.

(3) The first set of conditions is that—

(a) there was a disposal by a public sector authority of the owner's interest in the dwelling before the cut-off date; and

(b) there has been no disposal for value by any person of owner's interest in the dwelling on or after the cut-off date;

and for the purposes of this subsection where a public sector authority hold an interest in a dwelling a disposal of that interest by or under any enactment is to be treated as a disposal by the authority.

(4) The second set of conditions is that—

(a) a person to whom this section applies acquired the owner's interest in the dwelling on a disposal for value occurring within the period of 12 months beginning with the cut-off date;

(b) on the date of that disposal he was unaware of the association of the dwelling with the qualifying defect;

(c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect; and

(d) if the cut-off date had fallen immediately after the date of the diposal, the first set of conditions would have been satisfied.

260 Exceptions to eligibility.

A person is not eligible for assistance in respect of a defective dwelling if the local authority are of the opinion that—

(a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and

(b) on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

261 Construction of references to disposal, etc.

(1) References in this Part to a disposal include a part disposal; but for the purposes of this Part a disposal of an interest in a dwelling is a disposal of a relevant interest in

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the dwelling only if on the disposal the person to whom it is made acquires a relevant interest in the dwelling.

(2) Subject to subsection (3), where any interest in land is disposed of, the time at which the disposal is made is, for the purposes of this Part, the time the missives are concluded (and not, if different, the date of entry specified in the missives).

(3) If the missives contain a condition precedent (and in particular if they contain a condition relating to the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition precedent is satisfied.

(4) References in this Part to a disposal of an interest for value are to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.

(5) In relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references in this Part to a previous disposal of an interest in the dwelling include a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired.

Determination of entitlement

262 Application for assistance.

A person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the local authority within the period specified in the relevant designation.

263 Application not to be entertained where grant application pending or approved.

(1) The local authority shall not entertain an application for assistance under this Part if—

(a) an application has been made in respect of the defective dwelling (whether before or after the relevant designation came into operation) for a grant under Part XIII, and

(b) the relevant works in relation to that grant include the whole or part of the work required to reinstate the dwelling,

unless the grant application has been refused or has been withdrawn under subsection (2) or the relevant works have been completed.

(2) Where a person has applied for such a grant in respect of a dwelling and—

(a) the dwelling is a defective dwelling, and

(b) the relevant works include the whole or part of the work required to reinstate it,

he may withdraw his application, whether or not it has been approved, if the relevant works have not been begun.

(3) In this section "relevant works", in relation to a grant, means works of improvement or repair within the meaning of Part XIII.

264 Determination of eligibility.

(1) A local authority receiving an application for assistance under this Part shall as soon as reasonably practicable give notice in writing to the applicant stating whether in their opinion he is eligible for assistance in respect of the defective dwelling.

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(2) If they are of opinion that he is not so eligible, the notice shall state the reasons for their view.

(3) If they are of opinion that he is so eligible, the notice shall inform him of his right to make such a claim as is mentioned in section 265(2) (claim that assistance by way of reinstatement grant is inappropriate in his case).

265 Determination of form of assistance to which applicant is entitled.

(1) A local authority receiving an application for assistance under this Part shall, if the applicant is eligible for assistance, determine **[**F330as soon as reasonably practicable**]** whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.

(2) If the authority are satisfied, on a claim by the applicant to that effect, that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the applicant is entitled to assistance by way of repurchase.

(3) Subject to subsection (2), the applicant is entitled to assistance by way of reinstatement grant if the authority are satisfied that the conditions for such assistance set out in section 266 are met, and otherwise to assistance by way of repurchase.

Textual Amendments

F330 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 166(2)**

266 Conditions for assistance by way of reinstatement grant.

(1) The conditions for assistance by way of reinstatement grant are, subject to any order under subsection (2)—

(a) that the dwelling is a house (as defined in section 302);

(b) that if the work required to reinstate the dwelling (together with any other work which the local authority are satisfied the applicant proposes to carry out) were carried out—

(i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and

(ii) an individual acquiring ownership of the dwelling with vacant possession would be likely to be able to obtain a loan on the security of it on satisfactory terms from a lending institution;

(c) that giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling and, on the other hand, to the likely value of the dwelling with vacant possession after the work required to reinstate it has been carried out; and

(d) F331

(2) The Secretary of State may by order amend the conditions set out in subsection (1) so as to modify or omit any of the conditions or to add or substitute for any of the conditions other conditions.

(3) An order—

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(a) may make different provision for different classes of case,
(b) shall be made by statutory instrument, and
(c) shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(4) An order does not affect an application for assistance made before the order comes into force.

Textual Amendments
F331 S. 266(1)(d) repealed by S.I. 1988/978, **art. 2**

267 Meaning of "work required for reinstatement" and "associated arrangement".

(1) For the purposes of this Part the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists of or includes the dwelling in order to deal satisfactorily with the qualifying defect, together with any further work—

[F332(1A) In any case where—
(a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
(b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.**]**

(a) required to be done, in order to deal satisfactorily with the qualifying defect, to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, or
(b) reasonably required in connection with other work falling within this subsection.

(2) In this Part, "associated arrangement" means an arrangement which is entered into in connection with the execution of the work required to reinstate a defective dwelling and is likely to contribute towards the dwelling being regarded as an acceptable security by a lending institution.

Textual Amendments
F332 S. 267(1A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 166(3)**

268 Notice of determination.

(1) Where an applicant is eligible for assistance, the authority to whom the application was made shall as soon as reasonably practicable give him notice in writing (a "notice of determination") stating the form of assistance to which he is entitled.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If, on such a claim by the applicant as is mentioned in section 265(2) (claim that assistance by way of reinstatement grant is inappropriate in his case), the authority are not satisfied that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the notice shall state the reasons for their view.

(3) A notice stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—

(a) the grounds for the authority's determination;

(b) the work which, in their opinion, is required to reinstate the defective dwelling;

(c) the amount of expenditure which, in their opinion, may properly be incurred in executing the work;

(d) the amount of expenditure which, in their opinion, may properly be incurred in entering into an associated arrangement;

(e) the condition required by section 270 (execution of work to satisfaction of authority within specified period), including the period within which the work is to be carried out; and

(f) their estimate of the amount of grant payable in respect of the dwelling in pursuance of this Part.

(4) A notice stating that the applicant is entitled to assistance by way of repurchase shall also state the grounds for the authority's determination and the effect of—

(a) paragraphs **[**F333**]**2, 3 and 7**]** of Schedule 20 (request for notice of proposed terms of repurchase), and

(b) sections **[**F333**]**282, 284 and 285**]** (provisions for grant of tenancy to former owner-occupier of repurchased dwelling).

(5) References in the following provisions of this Part to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase are to a person who is eligible for assistance in respect of the dwelling and on whom a notice of determination has been served stating that he is entitled to that form of assistance.

Textual Amendments

F333 Words substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 19**

Assistance by way of reinstatement grant

269 Reinstatement grant.

(1) Where a person is entitled to assistance by way of reinstatement grant, the local authority shall pay reinstatement grant to him in respect of—

(a) the qualifying work, and

(b) any associated arrangement,

subject to and in accordance with the following provisions of this Part.

(2) The "qualifying work" means the work stated in the notice of determination, or in a notice under section 272 (notice of change of work required), to be the work which in the opinion of the local authority is required to reinstate the dwelling.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

270 Conditions of payment of reinstatement grant.

(1) It is a condition of payment of reinstatement grant that the qualifying work is carried out—

(a) to the satisfaction of the local authority, and

(b) within the period specified in the notice of determination, or that period as extended.

(2) The period so specified shall be such reasonable period (of at least 12 months), beginning with service of the notice, as the authority may determine.

(3) The authority shall, if there are reasonable grounds for doing so, by notice in writing served on the person entitled to assistance, extend or further extend the period for carrying out the qualifying work (whether or not the period has expired).

(4) Payment of reinstatement grant shall not be subject to any other condition, however expressed.

271 Amount of reinstatement grant.

(1) The amount of reinstatement grant payable is the appropriate percentage of whichever is the least of—

(a) the amount stated in the notice of determination, or in a notice under section 272 (notice of change in work required or expenditure permitted), to be the amount of expenditure which, in the opinion of the local authority, may properly be incurred in executing the qualifying work and entering into any associated arrangement,

(b) the expenditure actually incurred in executing the qualifying work and entering into any associated arrangement, and

(c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this section.

(2) The appropriate percentage is 90 per cent. or, in a case where the authority are satisfied that the person entitled to assistance would suffer financial hardship unless a higher percentage of the expenditure referred to in subsection (1) were paid to him, 100 per cent.

(3) The Secretary of State may by order vary either or both of the percentages mentioned in subsection (2).

(4) The maximum amount of expenditure permitted to be taken into account for the purposes of this section is the amount specified as the expenditure limit by order made by the Secretary of State, except in a case or description of case in which the Secretary of State, on the application of a local authority, approves a higher amount.

(5) An order under subsection (4) may make different provision for different areas, different designated classes and different categories of dwelling.

(6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

272 Changes in work or expenditure.

Where the local authority are satisfied that—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice of determination or in a previous notice under this section, or

(b) the amount of the expenditure which may properly be incurred in executing that work is greater than that so stated, or

(c) there is an amount of expenditure which may properly be incurred in entering into an associated arrangement but no such amount is stated in the notice of determination or a previous notice under this section, or

(d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

they shall by notice in writing served on the person entitled to assistance state their opinion as to that amount or, as the case may be, that work and that amount; and the amount of reinstatement grant shall be adjusted accordingly.

273 Payment of reinstatement grant.

(1) The local authority may pay reinstatement grant in respect of the qualifying work in a single sum on completion of the work or by instalments.

(2) No instalment shall be paid if the instalment, together with any amount previously paid, would exceed the appropriate percentage of the cost of so much of the qualifying work as has been executed at that time.

(3) The authority shall pay reinstatement grant in respect of an associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement falls to be made.

274 Repayment of grant for breach of condition.

(1) Where an amount of reinstatement grant has been paid in one or more instalments and the qualifying work is not completed within the period for carrying out the work, the local authority may, if they think fit, require the person who was entitled to assistance to repay that amount to them forthwith.

(2) The amount required to be repaid (or, if it was paid in more than one instalment, the amount of each instalment) shall carry interest, at such reasonable rate as the authority may determine, from the date on which it was paid until repayment.

Assistance by way of repurchase

275 Repurchase.

Schedule 20 shall have effect with respect to assistance by way of repurchase, as follows—

Part I—The agreement to repurchase.

Part II—Price payable and valuation.

276 Repurchase by authority other than local authority.

Where the local authority give a notice of determination to a person stating that he is entitled to assistance by way of repurchase and they are of opinion that—

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a relevant interest in the dwelling was disposed of by a public sector authority mentioned in column 1 of the following Table (or a predecessor mentioned there of such an authority),

(b) there has been no disposal within paragraph (a) since the time of that disposal, and

(c) any conditions mentioned in column 2 of the Table in relation to the authority are met,

they shall forthwith give that other authority a notice in writing, together with a copy of the notice of determination, stating that the authority may acquire, in accordance with this Part, the interest of the person entitled to assistance.

TABLE

Public sector authority	***Conditions***
1. A registered housing association (other than a co-operative housing association) or a predecessor housing association of that association.	None.
[F334**]**2. Scottish Homes or the Scottish Special Housing Association**]**	None.
3. A development corporation.	None.
4. Another local authority or a predecessor of that authority.	The local authority provide housing accommodation in the vicinity of the defective dwelling with which the dwelling may conveniently be managed.
5. Any other public sector authority prescribed by order of the Secretary of State, or a predecessor so prescribed.	Any conditions prescribed by the order.

(2) The other authority may, within the period of four weeks beginning with the service of the notice on them, give notice in writing to the local authority—

(a) stating that they wish to acquire the interest, and

(b) specifying the address of the principal office of the authority and any other address which may also be used as an address for service;

and the local authority shall forthwith give to the person entitled to assistance a transfer notice, that is, a notice in writing of the contents of the notice received by them and the effect of subsection (3).

(3) After a transfer notice has been given to the person entitled to assistance, the other authority shall be treated as the appropriate authority for the purposes of anything done or falling to be done under this Part, except that—

(a) a request under paragraph 2 of Schedule **[**F335**]**20**]** (request for notice of proposed terms of acquisition) may be made either to the local authority or to the other authority, and

(b) any such request given to the local authority (whether before or after the notice) shall be forwarded by them to the other authority;

and references in this Part to "the purchasing authority" shall be construed accordingly.

(4) An order under this section shall be made by statutory instrument.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F334 Entry substituted by Housing (Scotland) Act 1988 (c. 43, SIF 61), ss. 1, 3, **Sch. 2 para. 14**

F335 Figure substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c.43, SIF 61), s. 72(1), **Sch. 7 para. 20**

277 Interest subject to right of pre-emption, etc.

(1) This section applies where a person ("the owner") is entitled to assistance by way of repurchase in respect of a defective dwelling and there is a condition in the title relating to his interest in the dwelling whereby—

(a) before disposing of the interest he must offer to dispose of it to a public sector authority, or

(b) in the case of an interest under a lease, he may require a public sector authority who are his landlords to accept a surrender of the lease but is otherwise prohibited from disposing of it.

(2) If the public sector authority are the local authority in whose area the dwelling is situated, the condition in the title shall be disregarded for the purposes of Schedule 20 (repurchase).

(3) If the public sector authority are not the local authority, the provisions of this Part as to repurchase do not apply so long as there is such a condition in the title; but if—

(a) the owner disposes of his interest to the public sector authority in pursuance of the condition in the title or lease, and

(b) the interest acquired by that authority on the disposal subsists only in the land affected, that is to say, the defective dwelling and any garage, outhouse, garden, yard and pertinents belonging to or usually enjoyed with the dwelling or any part of it,

the owner is entitled to be paid by the local authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the consideration for the disposal.

(4) For the purposes of this section—

(a) the "consideration for the disposal" means the amount before any reduction required by section 72 (reduction corresponding to amount of discount repayable) or any provision to the like effect, and

(b) the "defect-free value" means the amount that would have been the consideration for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

278 Compulsory purchase compensation to be made up to 95 per cent. of defect-free value.

(1) Where a person ("the owner") has disposed of an interest in a defective dwelling, otherwise than in pursuance of Schedule 20 (repurchase), to an authority possessing compulsory purchase powers and—

(a) immediately before the time of the disposal he was eligible for assistance under this Part in respect of the dwelling,

(b) the amount paid as consideration for the disposal did not include any amount attributable to his right to apply for such assistance, and

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(c) on the disposal the authority acquired an interest in any of the affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and pertinents belonging to or usually enjoyed with the dwelling or any part of it,

he is entitled, subject to the following provisions of this section, to be paid by the local authority the amount (if any) by which 95 per cent. of the defect-free value exceeds the amount of the compensation for the disposal.

(2) For the purposes of this section—

(a) the "amount of compensation for the disposal" means the amount that would have been the proper amount of compensation for the disposal (having regard to any relevant determination of the Lands Tribunal) or, if greater, the amount paid as the consideration for the disposal, and

(b) the "defect-free" value means the amount that would have been the proper amount of compensation for the disposal if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect;

but excluding, in either case, any amount payable for disturbance or for any other matter not directly based on the value of land.

(3) For the purposes of this section, it shall be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so).

(4) Where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development, it shall be assumed for the purposes of determining the defect-free value that it did not fall to be so assessed.

(5) The amount payable by the local authority under this section shall be reduced by the amount of any payment made in respect of the defective dwelling under section 304 or 305 (payments for well-maintained houses).

(6) In this section "authority possessing compulsory purchase powers" has the same meaning as in the [M52]Land Compensation (Scotland) Act 1963.

Marginal Citations

M52 1963 c. 51.

279 Supplementary provisions as to payments under s.277 or 278.

(1) The local authority are not required to make a payment to a person under—

(a) section 277 (making-up of consideration on disposal in pursuance of right of pre-emption, etc.), or

(b) section 278 (making up of compulsory purchase compensation),

unless he makes a written application to them for payment before the end of the period of two years beginning with the time of the disposal.

(2) Where the authority—

(a) refuse an application for payment under section 277 on any grounds, or

(b) refuse an application for payment under section 278 on the grounds that the owner was not eligible for assistance in respect of the defective dwelling,

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Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

they shall give the applicant written notice of the reasons for their decision.

(3) Any question arising—

(a) under section 277 or 278 as to the defect-free value, or

(b) under section 278 as to the amount of compensation for the disposal,

shall be determined by the district valuer if the owner or the local authority so require by notice in writing served on the district valuer.

(4) A person serving a notice on the district valuer in pursuance of subsection (3) shall serve notice in writing of that fact on the other party.

(5) Before making a determination in pursuance of subsection (3), the district valuer shall consider any representation by the owner or the authority made to him within 4 weeks from the service of the notice under that subsection.

280 Reimbursement of expenses incidental to repurchase.

(1) A person whose interest in a defective dwelling is acquired by the purchasing authority in pursuance of Schedule 20 (repurchase) is entitled to be reimbursed by the purchasing authority the proper amount of—

(a) expenses in respect of legal services provided in connection with the authority's acquisition, and

(b) other expenses in connection with negotiating the terms of that acquisition,

being in each case expenses which are reasonably incurred by him after receipt of a notice under paragraph 3 of that Schedule (authority's notice of proposed terms of acquisition).

(2) An agreement between a person and the purchasing authority is void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the authority in connection with the exercise by him of his rights under this Part.

Effect of repurchase on occupier

281 Effect of repurchase on certain existing tenancies.

(1) Where an authority mentioned in section 44 (authorities satisfying the landlord condition for secure tenancy) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase) and—

(a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and

(b) the interest of the person entitled to assistance by way of repurchase is, immediately before the completion of the authority's acquisition, subject to a tenancy of the house,

the tenancy shall not, on or after the acquisition, become a secure tenancy unless the conditions specified in subsection (2) are met.

(2) The conditions are—

(a) that the tenancy was a protected tenancy throughout the period beginning with the making of an application for assistance under this Part in respect of the defective dwelling and ending immediately before the authority's acquisition; and

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(b) no notice was given in respect of the tenancy in accordance with any of Cases 11 to 14 and 16 to 21 in Schedule 2 to the [M53]Rent (Scotland) Act 1984 (notice that possession might be recovered under that Case) or under section **[**[F336]9(1)(d) of the Rent (Scotland) Act 1984**]** (notice that tenancy is to be a protected short tenancy).

Textual Amendments

F336 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 21**

Marginal Citations

M53 1984 c. 58.

282 Grant of tenancy to former owner-occupier.

(1) Where an authority acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), or in the circumstances described in section 277(3) (exercise of right of pre-emption, etc.), and—

(a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and

(b) an individual is an occupier of the house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and

(c) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or the persons so entitled are in relation to the interest concerned his trustees,

the authority shall, in accordance with this section, either grant or arrange for him to be granted a tenancy of that house or another on the completion of their acquisition of the interest concerned.

(2) If the authority are among those mentioned in section **[**[F337]44(2)**]** (public sector authorities capable of granting secure tenancies) their obligation is to grant a secure tenancy.

(3) In any other case their obligation is to grant or arrange for the grant of either—

(a) a secure tenancy, or

(b) a protected tenancy other than one under which the landlord might recover possession under one of the cases in Part II of Schedule 2 to the [M54]Rent (Scotland) Act 1984 (cases in which the court must order possession).

(4) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same house, the authority shall grant the tenancy, or arrange for it to be granted, to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

Textual Amendments

F337 Figure substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 22**

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M54 1984 c. 58.

283 Grant of tenancy to former statutory tenant.

(1) Where an authority mentioned in section 44 **[**F338(2)**]** (public sector authorities capable of granting secure tenancies) acquire an interest in a defective dwelling in pursuance of Schedule 20 (repurchase), and—

(a) the land in which the interest subsists is or includes a house occupied as a separate dwelling, and

(b) an individual is an occupier of a house throughout the period beginning with the making of an application for assistance under this Part in respect of the dwelling and ending immediately before the completion of the authority's acquisition, and

(c) he is a statutory tenant of the house at the end of that period, and

(d) no notice was given in respect of the original tenancy in accordance with any of Cases 11 to 14 and 16 to 21 in Schedule 2 to the Rent (Scotland) Act 1984 (notice that possession might be recovered under that Case) or under section **[**F339**]**9(1)(d) of the Rent (Scotland) Act 1984 (notice that the tenancy is to be a short tenancy)**]**, and

(e) the interest of the person entitled to assistance would, if the statutory tenancy were a contractual tenancy, be subject to the tenancy at the end of the period mentioned in paragraph (b),

the authority shall grant him a secure tenancy (of that house or another) on the completion of their acquisition of the interest concerned.

(2) Where two or more persons qualify for the grant of a tenancy under this section in respect of the same house, the authority shall grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

(3) If at any time after the service of a notice of determination it appears to the purchasing authority that a person may be entitled to request them to grant him a secure tenancy under this section, they shall forthwith give him notice in writing of that fact.

Textual Amendments

F338 Figure inserted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 23(a)**

F339 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 23(b)**

284 Alternative accommodation under s.282 or 283.

(1) The house to be let under the tenancy granted to a person—

(a) under section 282 or 283 (grant of tenancy to former owner-occupier or statutory tenant of defective house acquired by authority), or

(b) under arrangements made for the purposes of section 283,

shall be the house of which he is the occupier immediately before the completion of the authority's acquisition (the "current house"), except in the following Cases—

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Case 1

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

Case 2

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

(a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or

(b) to carry out work on any building or land in which the interest concerned subsists,

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

(2) In those Cases the house to be let shall be another house which, so far as is reasonably practicable in the case of that authority, affords accommodation which is—

(a) similar as regards extent and character to the accommodation afforded by the current house,

(b) reasonably suitable to the means of the prospective tenant and his family, and

(c) reasonably suitable to the needs of the prospective tenant and his family as regards proximity to place of work and place of education.

285 Request for tenancy under s.282 or 283.

(1) An authority are not required to grant, or arrange for the grant of, a tenancy to a person under section 282 or 283 unless he requests them to do so in writing before—

(a) in the case of an acquisition under Schedule 20 (repurchase), the service on the person entitled to assistance of an offer to purchase under **[**F340paragraph 3**]** of that Schedule, or

(b) in the case of an acquisition in the circumstances described in section 277(3) (acquisition in pursuance of right of pre-emption, etc.), the time of the disposal.

(2) An authority receiving a request under subsection (1) shall, as soon as reasonably practicable, give notice in writing to the person making the request stating whether in their opinion either of the Cases in section 284(1) applies (cases in which tenancy may be of a house other than the current house).

(3) If their opinion is that either Case does apply, the notice shall also state which of the Cases is applicable and the effect of section 284.

Textual Amendments

F340 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(1), **Sch. 7 para. 24**

286 Interpretation of ss.281 to 285.

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

(a) "house" has the same meaning as in Part III (secure tenancies);

Status: *Point in time view as at 30/01/2004.*
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(b) "occupier", in relation to a house, means a person who occupies the house as his only or principal home or (in the case of a statutory tenant) as his residence;

(c) references to the grant of a secure tenancy are to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the house as his only or principal home.

Local schemes

287 Designation of defective dwellings under local schemes.

(1) A local authority may by resolution designate as a class buildings in their area each of which consists of or includes one or more dwellings if it appears to them that—

(a) buildings in the proposed class are defective by reason of their design or construction, and

(b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) Subsection (1) does not apply to a building in a class designated under section 257 (designation by Secretary of State); but a building does not cease to be included in a class designated under this section by virtue of its inclusion in a class designated under that section.

(3) A dwelling which is, or is included in, a building in a class so designated is referred to in this Part as a "defective dwelling"; and in this Part, in relation to such a dwelling—

(a) "the qualifying defect" means what, in the opinion of the authority, is wrong with the buildings in that class, and

(b) "the cut-off date" means the date by which, in the opinion of the authority, the circumstances mentioned in subsection (1)(a) became generally known.

(4) A designation shall describe the qualifying defect and specify—

(a) the cut-off date,

(b) the date (being a date falling on or after the cut-off date) on which the designation is to come into operation, and

(c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.

(5) A designation may not describe a designated class by reference to the area (other than the authority's district) in which the buildings concerned are situated; but may be so described that within the authority's area there is only one building in the class.

(6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the local authority concerned.

288 Variation or revocation of designation under local schemes.

(1) The local authority may by resolution—

(a) vary a designation under section 287, but not so as to vary the cut-off date, or

(b) revoke such a designation.

Status: *Point in time view as at 30/01/2004.*
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(2) The authority may by a variation of the designation extend the period referred to in section 287(4)(c) (period within which assistance must be applied for) whether or not it has expired.

(3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and application for assistance under this Part has been made.

289 Secretary of State's control over designation, variation or revocation.

(1) Where a local authority have passed a resolution under—

(a) section 287 (designation under local scheme), or

(b) section 288 (variation or revocation of designation under local scheme),

they shall give written notice to the Secretary of State of the resolution before the expiry of the period of 28 days beginning with the date on which it is passed.

(2) The designation, variation or revocation shall not come into operation before **[**F341the cut-off date or if it is later**]** the expiry of the period of 2 months **[**F341or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A) below**]** beginning with the receipt by the Secretary of State of the notice under subsection (1).

[F342(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2) above, the Secretary of State is satisfied that he does not have reasonably sufficient information to enable him to come to a decision with respect to the resolution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction.**]**

(3) If **[**F343before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above**]** the Secretary of State serves notice in writing to that effect on the authority, the designation, revocation or variation shall not come into operation.

Textual Amendments

F341 Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 166(4)(a)**

F342 S. 289(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 166(4)(b)(5)**

F343 Words substituted by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 166(4)(c)**

Miscellaneous

290 Duty of local housing authority to publicise availability of assistance.

(1) A local authority shall, within the period of 3 months beginning with the coming into operation of—

(a) a designation under section 257 (designation of defective dwellings by Secretary of State) or section 287 (designation of defective dwellings under local scheme), or

(b) a variation of such a designation,

Status: *Point in time view as at 30/01/2004.*
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publish in a newspaper circulating in their area notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of such of the dwellings concerned as are situated within their area.

(2) No such notice need be published by a local housing authority who are of opinion—

(a) that none of the dwellings concerned are situated in their area, or

(b) that no-one is likely to be eligible for assistance in respect of the dwellings concerned which are situated in their area.

(3) If at any time it becomes apparent to a local authority that a person is likely to be eligible for assistance in respect of a defective dwelling within their area, they shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

291 Duties of public sector authority disposing of defective dwelling.

(1) A public sector authority shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by the authority, give him notice in writing before the time of the disposal—

(a) specifying the qualifying defect, and

(b) stating that he will not be eligible for assistance under this Part in respect of the dwelling.

(2) A public sector authority shall, before they convey a relevant interest in a defective dwelling in pursuance of completed missives to a person on whom a notice under subsection (1) has not been served, give him notice in writing—

(a) specifying the qualifying defect,

(b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and

(c) stating the effect of subsection (3).

(3) A person on whom a notice under subsection (2) is served—

(a) is not obliged to complete the conveyance before the expiry of the period of 6 months beginning with the service of that notice on him, and

(b) may within that period withdraw from the transaction by notice in writing to the authority to that effect.

(4) Where a public sector authority are required to serve a notice under section 63(2), 68, 69 or 70 (landlord's response to notice claiming to exercise right to buy) in respect of a defective dwelling, the notice under subsection (1) shall be served with that notice.

(5) A notice under subsection (1) or (2) shall, (except in the case of a notice under subsection (1) which is served in accordance with subsection (4)), be served at the earliest date at which it is reasonably practicable to do so.

292 Reinstatement of defective dwelling by local authority.

(1) Where a relevant interest in a defective dwelling has been disposed of by a public sector authority, the local authority may, before the end of the period within which a person may seek assistance under this Part in respect of the dwelling, enter into an agreement with—

(a) any person holding an interest in the dwelling, or

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(b) any person who is a statutory tenant of it,

to execute at his expense any of the work required to reinstate the dwelling.

(2) For the purposes of this section a disposal by or under an enactment of an interest in a dwelling held by a public sector authority shall be treated as a disposal of the interest by the authority.

293 Death of person eligible for assistance, etc.

(1) Where a person who is eligible for assistance in respect of a defective dwelling—

(a) dies, or

(b) disposes of his interest in the dwelling (otherwise than on a disposal for value) to such a person as is mentioned in section 259(2) (persons qualifying for assistance: individuals, trustees for individuals and personal representatives),

this Part applies as if anything done (or treated by virtue of this subsection as done) by or in relation to the person so eligible had been done by or in relation to his personal representatives or, as the case may be, the person acquiring his interest.

(2) In sections 277 to 279 (subsidiary forms of financial assistance) references to the owner of an interest in a defective dwelling include his personal representatives.

294 Dwellings included in more than one designation.

The provisions of Schedule 21 have effect with respect to dwellings included in more than one designation.

295 Application of Act in relation to lenders on security of defective dwelling.

(1) The Secretary of State may by regulations made by statutory instrument subject to annulment by either House of Parliament make provision for the purpose of conferring rights and obligations on any person who has granted a loan on the security of a defective dwelling where—

(a) a power of sale is exercisable by the lender, and

(b) the borrower is eligible for assistance in respect of the defective dwelling.

(2) The rights that may be conferred on a lender by regulations under this section are—

(a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling, and

(b) the right to require the local authority to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale,

and the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Part.

(3) Regulations under this section may provide that, where the conditions in subsection (1)(a) and (b) are or have been satisfied, this Part, the power of sale and any enactment relating to the power of sale in question shall have effect subject to such modifications as may be specified in the regulations.

(4) Regulations under this section—

(a) may make different provision for different cases, and

(b) may make incidental and consequential provision.

Status: *Point in time view as at 30/01/2004.*
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296, 297. . . . . . F344

Textual Amendments

F344 Ss. 296, 297 repealed by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(3), **Sch. 10**

Supplementary provisions

298 Service of notices.

(1) A notice or other document under this Part may be given to or served on a person, and an application or written request under this Part may be made to a person—

(a) by delivering it to him or leaving it at his proper address, or

(b) by sending it to him by post,

and also, where the person concerned is a body corporate, by giving or making it to or serving it on the secretary of that body.

(2) For the purposes of this section, and of section 7 of the M55Interpretation Act 1978 as it applies for the purposes of this section, the proper address of a person is—

(a) in the case of a body corporate or its secretary, the address of the principal office of the body,

(b) in any other case, his last known address)

and also, where an additional address for service has been specified by that person in a notice under section 276(2) (notice of intention to assume responsibility for repurchase), that address.

Marginal Citations

M55 1978 c. 30.

299 Jurisdiction of sheriff in Scotland.

(1) A sheriff of the sheriff court district within which the defective dwelling is situated has jurisdiction—

(a) to determine any question arising under this Part; and

(b) to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed.

(2) Subsection (1) has effect subject to—

(a) sections 257(6) and 287(6) (questions of designation to be decided by designating authority),

(b) section 279(3) and **[**F345paragraph 11(1) of Schedule 20**]** (questions of valuation to be determined by district valuer).

Status: *Point in time view as at 30/01/2004.*
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(3) Where an authority required by section 270(3) or paragraph 7 of Schedule 20 to extend or further extend any period fail to do so, the sheriff may extend or further extend that period until such date as he may specify.

[F346(4) Where damages are awarded in proceedings commenced before 1st December 1994 which arise out of a failure on the part of the public sector authority to give a person acquiring a relevant interest in a dwelling notice in writing under section 291, the amount of damages for the purposes of this subsection shall be equal to the difference between—

(a) the market value of the dwelling assessed as if it were not a defective dwelling and were available for sale on the open market with vacant possession; and

(b) the market value of the dwelling assessed as a defective dwelling and as if available for sale on the open market with vacant possession.

(5) Subsection (4) applies in relation to proceedings which arise out of a failure by the authority before the coming into force of section 156 of the Leasehold Reform, Housing and Urban Development Act 1993 as it does to proceedings which arise out of a failure by the authority after that date.**]**

Textual Amendments

F345 Words substituted (*retrospectively*) by Housing (Scotland) Act 1988 (c.43, SIF 61), s. 72(1), **Sch. 7 para. 26**

F346 S. 299(4)(5) added (27.9.1993) by 1993 c. 28, **s. 156**; S.I. 1993/2163, art. 2, **Sch. 1**.

300 Meaning of "public sector authority".

(1) In this Part—

(a) "public sector authority" means—

a **[**F347council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]** (or a predecessor of such a council),

a joint board and a joint committee of which every constituent member is, or is appointed by, such a council or predecessor of such a council,

[F348Scottish Water**]**,

the Housing Corporation,

the Scottish Special Housing Association,

a registered housing association other than a co-operative housing association (or a predecessor housing association of such an association),

a development corporation,

the National Coal Board, or

the United Kingdom Atomic Energy Authority,

or a body corporate or housing association specified by order of the Secretary of State in accordance with the following provisions;

(b) "co-operative housing association" means a fully mutual housing association which is a society registered under the M56Industrial and Provident Societies Act 1965, and "fully mutual", in relation to a housing association, means that the rules of the association—

(i) restrict membership to persons who are tenants or prospective tenants of the association, and

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(ii) preclude the granting or assignation of tenancies to persons other than members.

(2) The Secretary of State may provide that a body corporate shall be treated as a public sector authority if he is satisfied—

(a) that the affairs of the body are managed by its members, and

(b) that its members hold office by virtue of appointment (to that or another office) by a Minister of the Crown under an enactment,

or if he is satisfied that it is a subsidiary of such a body.

(3) The Secretary of State may provide that a housing association shall be treated as a public sector authority if he is satisfied that the objects or powers of the association include the provision of housing accommodation for individuals employed at any time by a public sector authority or dependants of such individuals.

(4) Where the Secretary of State is satisfied that a body or association met the requirements of subsection (2) or (3) during any period, he may, whether or not he makes an order in respect of the body or association under that subsection, provide that it shall be treated as having been a public sector authority during that period.

(5) If the Secretary of State is satisfied that a body or association specified in an order under subsection (2) or (3) has ceased to meet the requirements of that subsection on any date, he may by order provide that it shall be treated as having ceased to be a public sector authority on that date.

(6) An order under this section shall be made by statutory instrument.

Textual Amendments

F347 Words in s. 300(1)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(6)**; S.I. 1996/323, **art. 4**

F348 Words in s. 300(1)(a) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)

Marginal Citations

M56 1965 c. 12.

301 Disposal of certain Crown interests in land treated as disposal by public sector authority.

References in this Part to a disposal of an interest in a dwelling by a public sector authority include a disposal of—

(a) an interest belonging to Her Majesty in right of the Crown,

(b) an interest belonging to, or held in trust for Her Majesty for the purposes of, a government department or Minister of the Crown.

302 Meaning of "dwelling" and "house".

(1) In this Part, "dwelling" means any house, flat or other unit designed or adapted for living in.

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Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) For the purposes of this Part a building so designed or adapted is a "house" if it is a structure reasonably so called; so that where a building is divided into units so designed or adapted—

(a) if it is so divided horizontally, or a material part of a unit lies above or below another unit, the units are not houses (though the building as a whole may be), and

(b) if it is so divided vertically, the units may be houses.

(3) Where a house which is divided into flats or other units is a defective dwelling in respect of which a person is eligible for assistance, the fact that it is so divided shall be disregarded for the purposes of section 266(1)(a) (first condition for assistance by way of reinstatement: that the dwelling is a house).

303 Interpretation.

In this Part—

"associated arrangement" has the meaning given by section 267(2);

"cut-off date" is to be construed in accordance with section 257(2) or, as the case may be, 287(3);

"defective dwelling" is to be construed in accordance with section 257(2) or, as the case may be, 287(3);

"interest in dwelling" includes an interest in land which is or includes the dwelling;

"lending institution" means a building society, a bank or an insurance company;

"person entitled to assistance" (by way of reinstatement grant or repurchase) is to be construed in accordance with section 268(5);

"public sector authority" has the meaning given by section 300;

"purchasing authority" is to be construed in accordance with section 276(3);

"qualifying defect" is to be construed in accordance with section 257(2) or, as the case may be, section 287(3);

"relevant interest" means the interest of the owner;

"work required to reinstate a defective dwelling" is to be construed in accordance with section 267(1).

PART XV

COMPENSATION PAYMENTS

Payments for well-maintained houses.

304 Payments in respect of well-maintained houses subject to closing orders etc.

(1) If—

(a) a house has been vacated in pursuance of a closing order or a demolition order, or purchased compulsorily under section 121 instead of the making of a closing order or a demolition order in respect of the building in which it is comprised; and

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(b) any person has, within 3 months after the service of the closing order or demolition order, or of the notice of determination to purchase required by section 121(3), or after the confirmation of a compulsory purchase order, made a representation to the local authority that the house has been well maintained and that the good maintenance of the house is attributable wholly or partly to work carried out by him or at his expenses; and

(c) leaving out of account any defects in the house in respect of any such matters as are mentioned in section 86, the representation is correct;

the local authority shall make to that person in respect of that house a payment calculated in accordance with section 306.

(2) If, on receiving a representation under subsection (1), the local authority consider that the condition specified in paragraph (c) of that subsection is not satisfied, they shall serve on the person by whom the representation was made notice that no payment falls to be made to him under that subsection.

(3) For the purposes of this section, a house comprised in a building which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was given.

305 Payments in respect of well-maintained houses subject to compulsory purchase as not meeting the tolerable standard.

(1) Where as respects a house which is made the subject of a compulsory purchase order under Part IV as not meeting the tolerable standard, the local authority are satisfied that it has been well maintained, they shall make a payment calculated in accordance with section 306 in respect of the house.

(2) A payment under this section shall be made—

(a) if the house is occupied by an owner thereof, to him, or

(b) if the house is not so occupied, to the person or persons liable to maintain and repair the house, and, if more than one person is so liable, in such shares as the local authority think equitable in the circumstances:

Provided that, if any other person satisfies the local authority that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the authority may, if it appears to them to be equitable in the circumstances, make the payment, in whole or in part to him.

(3) The local authority shall, along with the notice which they serve on any person under paragraph 3(b) of Schedule 1 to the [M57]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 in respect of the compulsory purchase of a house under Part IV, enclose a notice stating, subject to the calculation to be made under section 306, whether or not they intend to make a payment under this section in respect of the house.

(4) Any person aggrieved by a notice under subsection (3) which states that the local authority do not intend to make a payment under this section in respect of a house may, within 21 days of service on him of that notice, refer the matter to the Secretary of State; and the Secretary of State may, if he thinks it appropriate to do so (after, if he considers it necessary, causing the house to be inspected by one of his officers), direct the local authority to make such a payment.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M57 1947 c. 42.

306 Calculation of amount payable for well- maintained houses.

(1) This section shall apply in relation to any payment in respect of a well maintained house under section 304 or section 305.

(2) Subject to subsection (4), a payment to which this section applies shall be of an amount equal to the rateable value of the house multiplied by such multiplier as may from time to time be specified in an order made by the Secretary of State.

(3) An order made under subsection (2) shall be made by statutory instrument which shall be of no effect unless it is approved by a resolution of each House of Parliament.

(4) A payment to which this section applies shall not in any case exceed the amount (if any) by which the full compulsory purchase value of the house exceeds the restricted value thereof; and any question as to such value shall be determined, in default of agreement, as if it had been a question of disputed compensation arising on such a purchase.

(5) Where a payment falls to be made in respect of any interest in a house under section 308, no payment shall be made in respect of that house under section 304 or 305.

(6) In this section—

"full compulsory purchase value" has the same meaning as in section 311(2);

"rateable value" means the rateable value entered in the valuation roll last authenticated prior to the relevant date;

"restricted value" has the same meaning as in section 311(2); and

"the relevant date" in relation to any payment made with respect to any house means—

(a) if the house was purchased compulsorily in pursuance of a notice served under section 121, the date when the notice was served;

(b) if the house was vacated in pursuance of a demolition order or a closing order, or was declared not to meet the tolerable standard by an order under paragraph 2(1) of Schedule 2 to the [M58]Land Compensation (Scotland) Act 1963, the date when the order was made.

Marginal Citations
M58 1963 c. 51.

Status: *Point in time view as at 30/01/2004.*
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Repayment of certain payments

307 Repayment of payments made in connection with closing or demolition order when revoked.

Where a payment in respect of a house has been made by a local authority under section 304, 305 or 308 in connection with a demolition order or a closing order and, the demolition order or the closing order is revoked by an order under section 116, then if at any time the person to whom the payment was made is entitled to an interest in the house (within the meaning of section 311(2)), he shall on demand repay the payment to the authority.

Payments for houses not meeting tolerable standard

308 Right to and amount of payments for house not meeting tolerable standard.

(1) Where a house has been purchased at restricted value in pursuance of a compulsory purchase order made by virtue of sections 88 or 121 or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order under section 115 or a closing order under section 114 or 119, then if—

(a) on the relevant date and throughout the qualifying period the house was occupied as a private dwelling, and the person so occupying the house (or, if during that period it was so occupied by two or more persons in succession, each of those persons) was a person entitled to an interest in that house or a member of the family of a person so entitled, and

(b) the full compulsory purchase value of the interest is greater than its restricted value,

the authority concerned shall make in respect of that interest a payment of an amount equal to the difference between the full compulsory purchase value and the restricted value.

(2) Any question as to the values referred to in subsection (1) shall be determined, in default of agreement, as if it had been a question of disputed compensation arising on such a purchase.

(3) Where an interest in a house purchased or vacated as described in subsection (1) was acquired by any person (in this subsection referred to as the first owner) on or after 1st August 1968 and less than 2 years before the relevant date, and a payment under the said subsection (1) in respect of that interest would have fallen to be made by the authority concerned had the qualifying period been a period beginning with the acquisition and ending with the relevant date, the authority concerned shall make to the person who was entitled to the interest at the date when the house was purchased or vacated a payment of the like amount, if—

(a) the authority are satisfied that before acquiring the interest the first owner had made all reasonable inquiries to ascertain whether it was likely that the notice, resolution or order, by reference to which the relevant date is defined in section 311 would be served, passed or made within 2 years of the acquisition and that he had no reason to believe that it was likely; and

(b) the person entitled to the interest at the date when the house was purchased or vacated was the first owner or a member of his family.

Status: *Point in time view as at 30/01/2004.*
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309 Right of parties to certain agreements secured on, or related to, houses not meeting the tolerable standard to apply to sheriff for adjustment of the agreements.

(1) This section shall apply whether or not a payment falls to be made in respect of an interest in a house under section 308 where a house is purchased at restricted value in pursuance of a compulsory purchase order made by virtue of section 88, 120 or 121, or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the [M59]Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order or a closing order, and on the date of the making of the compulsory purchase or other order the house is occupied in whole or part as a private dwelling by a person who throughout the relevant period—

(a) holds an interest in the house, being an interest subject to a heritable security or charge, or

(b) is a party to an agreement to purchase the house by instalments.

(2) Where the provisions of subsection (1) apply in the case of any house, any party to the heritable security, charge or agreement in question may apply to the sheriff who, after giving to other parties an opportunity of being heard, may, if he thinks fit, make an order—

(a) in the case of a house which has been purchased compulsorily, discharging or modifying any outstanding liabilities of the person having an interest in the house, being liabilities arising by virtue of any bond or other obligation with respect to the debt secured by the heritable security or charge, or by virtue of the agreement, or

(b) in the case of a house vacated in pursuance of a demolition order, or closing order, discharging or modifying the terms of the heritable security, charge or agreeement,

and, in either case, either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the sheriff may think just.

(3) In determining in any case what order, if any, to make under this section, the sheriff shall have regard to all the circumstances of the case, and in particular—

(a) in the case of a heritable security or charge—

(i) to whether the heritable creditor or person entitled to the benefit of the charge acted reasonably in advancing the principal sum on the terms of the heritable security or charge; and in relation to this sub-paragraph he shall be deemed to have acted unreasonably if, at the time when the heritable security or charge was created, he knew or ought to have known that in all the circumstances of the case the terms of the heritable security or charge did not afford sufficient security for the principal sum advanced, and

(ii) where the heritable security or charge secures a sum which represents all or any part of the purchase price payable for the interest, to whether the purchase price was excessive, or

(b) in the case of an agreement to purchase by instalments, to how far the amount already paid by way of principal, or, where the house has been purchased compulsorily, the aggregate of that amount and so much, if any, of the compensation in respect of compulsory purchase as falls to be paid to the seller, represents a fair price for the purchase.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this section "the relevant period" means the period from the date of the making of the compulsory purchase or other order to—

(a) in the case of a compulsory purchase order, the date of service of notice to treat (or deemed service of notice to treat) for purchase of the house or, if the purchase is effected without service of notice to treat, the date of completion of that purchase, and

(b) in the case of any other order, the date of vacation of the house in pursuance of the order or of an order deemed to have been made and served in the terms of the next following subsection;

or, if the person referred to in subsection (1) dies before the date specified in paragraph (a) or (b), to the date of death.

(5) For the purposes of this section, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority, shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was given.

Marginal Citations
M59 1963 c. 51.

310 Provisions as to house subject to heritable security or purchased by instalments.

Section 309 (right of parties to certain agreements secured on, or related to, houses not meeting tolerable standard to apply to sheriff for adjustment of agreements) shall apply, whether or not a payment falls to be made in respect of an interest in a house under section 308, where the house not meeting the tolerable standard is purchased at restricted value in pursuance of a compulsory purchase order made by virtue of section 88, 120 or 121 or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the [M60]Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order or a closing order as it applies where a house has been purchased or vacated before 25th August 1969 as described in section 309.

Marginal Citations
M60 1963 c. 51.

311 Interpretation of sections 308 to 310.

(1) In section 308, in relation to any house purchased or vacated, "the relevant date" and "the authority concerned" mean respectively—

(a) if the house was purchased compulsorily in pursuance of a notice served under section 121, the date when and the authority by whom the notice was served;

(b) if the house was comprised in an area declared by a final resolution passed under Part IV to be a housing action area, the date when notice of that resolution was published and served in accordance with the provisions of Part I of Schedule 8 and the authority by whom the resolution was passed;

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(c) if the house was declared not to meet the tolerable standard by an order under paragraph 2(1) of Schedule 2 to the [M61]Land Compensation (Scotland) Act 1963, the date when the order was made and the acquiring authority within the meaning of that Act;

(d) if the house was vacated in pursuance of a demolition order or closing order, the date when and the authority by whom the order was made;

(e) if the house was compulsorily purchased under section 88(4), the date when and the authority by whom the order was served;

and "the qualifying period" means the period of 2 years ending with the relevant date, except that where that date is earlier than 31st July 1970, it means the period beginning with 1st August 1968 and ending with the relevant date.

(2) In sections 308 to 310—

"full compulsory purchase value", in relation to any interest in a house, means the compensation which would be payable in respect of the compulsory purchase of that interest if the house were not being dealt with under Part IV or Part VI as not meeting the tolerable standard, and, in the case of a house subject to a demolition order or closing order, the making of that order were a service of the notice to treat;

"interest" in a house does not include the interest of a tenant for a year or any less period or of a statutory tenant within the meaning of the [M62]Rent (Scotland) Act 1984 **[**[F349]or of a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988**]**;

"restricted value", in relation to the compulsory purchase of a house, means compensation in respect thereof assessed under or by virtue of section 120 or 121 or Part III of Schedule 8.

(3) For the purposes of section 308, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority having power to make the order shall be deemed to have been vacated in pursuance of a demolition order made and served by that authority at the date when the undertaking was given.

Textual Amendments

F349 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 18**

Marginal Citations

M61 1963 c. 51.

M62 1984 c. 58.

Payments to other local authorities

312 Payment of purchase money or compensation by one local authority to another.

(1) Any purchase money or compensation payable by a local authority under this Act in respect of any land, right or interest of another local authority which would but for this section be paid into a bank as provided by the Lands Clauses Acts may be otherwise paid and applied as the Secretary of State approves and determines.

Status: *Point in time view as at 30/01/2004.*
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(2) A determination of the Secretary of State under this section shall be final and conclusive.

PART XVI

GENERAL AND MISCELLANEOUS

Byelaws

313 Byelaws with respect to houses in multiple occupation.

(1) The power of making and enforcing byelaws under section 72 of the [M63]Public Health (Scotland) Act 1897 with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family shall extend to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) on the owner within the meaning of that Act of the said house, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises.

(3) Where an owner or other person has failed to carry out any work which he has been required to carry out under the byelaws, the local authority may, after giving to him not less than 21 days' notice in writing, themselves carry out the works and recover the costs and expenses.

(4) For the purpose of subsection (3), the provisions of Part V with respect to the enforcement of notices requiring the carrying out of work and the recovery of expenses by local authorities shall apply with such modifications as may be necessary.

(5) In this section "owner", in relation to a house mentioned in subsection (1), means the person entitled to receive, or who would if the premises were let, be entitled to receive the rents of the premises, and includes a trustee, factor, tutor, or curator, and in the case of public or municipal property applies to the persons to whom the management is entrusted.

Marginal Citations
M63 1897 c. 38.

314 Byelaws with respect to accommodation for agricultural workers.

(1) A local authority shall make, with respect to bothies, chaumers and similar premises which are used for the accommodation of agricultural workers and are not part of a farmhouse, byelaws regarding any of the following matters—

(a) the provision of a separate entrance in any case where the premises form part of other premises;

(b) the provision of ventilation and floor area;

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(c) the provision of adequate heating and lighting;
(d) the prevention of and safety from fire;
(e) the provision of a ventilated larder and a fireplace or stove suitable for cooking food and sufficient cooking utensils;
(f) the provision of furnishing, including the provision of a separate bed and bedding for each worker;
(g) the provision of accommodation for personal clothing, and of facilities for personal ablution;
(h) the painting, whitewashing or other cleansing of the premises at regular intervals;
(i) intimation to the local authority by farmers of the number of workers employed by them who are accommodated in bothies or in chaumers or similar premises;
(j) such other matters as may from time to time be prescribed:

Provided that, if the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make byelaws under this section, the Secretary of State may dispense with the making of such byelaws.

(2) Byelaws regarding the matters specified in paragraph (e) of subsection (1) shall apply only to premises in which the occupants cook their meals.

(3) Byelaws made by a local authority under this section may be limited to particular parts of the authority's area.

(4) Where a local authority fail, within such period as the Secretary of State may allow, to make with respect to any of the matters specified in subsection (1) byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall be of the like force and effect as if they had been made by the authority and confirmed.

315 Byelaws with respect to accommodation for seasonal workers.

(1) Subject to the provisions of this section, a local authority shall make byelaws for the whole or any part of their area with a view to providing proper accommodation for seasonal workers in respect of—
(a) intimation to the local authority of the intention to employ seasonal workers;
(b) the nature and extent of the accommodation to be provided for such workers, including due provision for—
(i) sleeping accommodation and separation of the sexes;
(ii) lighting, ventilation, cubic space, cleanliness and furnishing, including beds and bedding and cooking utensils;
(iii) storage of food, washing of clothes and drying of wet clothes;
(iv) water closets or privies for the separate use of the sexes; and
(v) a suitable supply of water;
(c) determining the persons responsible for the provision of the accommodation required by the byelaws, taking into account the terms of current contracts;
(d) inspection of the premises;
(e) exhibition on the premises of the byelaws;

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(f) such other matters relating to the accommodation of seasonal workers (including determining the persons responsible for regulating the use by the workers of the accommodation) as may from time to time be prescribed.

(2) If the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make bylaws under this section, the Secretary of State may dispense with the making of such byelaws.

(3) The Secretary of State may suspend, as respects the area of any local authority or any part of that area, the operation of any byelaw made under this section which affects agricultural interests in cases of emergency.

(4) If in consequence of any byelaws made under this section a farmer or a fruit grower is required to provide accommodation involving the erection of additional buildings, he may require the landlord to erect such buildings on terms and conditions to be determined, failing agreement, by the Secretary of State.

(5) In this section the expression "seasonal workers" includes navvies, harvesters, potato-workers, fruit-pickers, herring-gutters, and such other workers engaged in work of a temporary nature as may from time to time be prescribed.

(6) Where a local authority fail, within such period as the Secretary of State may allow, to make in respect of any of the matters specified in subsection (1) byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall have force and effect as if they had been made by the authority and confirmed.

316 Confirmation of byelaws.

For the purposes of section 202 of the [M64]Local Government (Scotland) Act 1973 (which relates to the procedure and other matters connected with the making of byelaws) the Secretary of State shall be the person by whom byelaws made under this Act are to be confirmed.

Marginal Citations
M64 1973 c. 65.

Entry

317 Power of entry for survey, etc.

(1) Subject to the provisions of this section, any person authorised by a local authority or by the Secretary of State may at all reasonable times enter any house, premises or building—

(a) for the purpose of survey and examination, where it appears to the local authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of any house, premises or building;

(b) for the purpose of survey and examination, in the case of any house in respect of which a notice under this Act requiring the execution of works has been served or a closing order, or a demolition order has been made;

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(c) for the purpose of survey or valuation, in the case of houses, premises or buildings which the local authority are authorised to purchase compulsorily under this Act;

(d) for the purpose of measuring the rooms of a house in order to ascertain for the purposes of Part VII the number of persons permitted to use the house for sleeping;

(e) for the purpose of ascertaining whether there has been a contravention of any regulation or direction made or given under Part VIII;

(f) for the purpose of ascertaining whether there has been an offence under section 165.

(2) Any person so authorised shall, except where entry is only for the purpose mentioned in paragraph (e) or paragraph (f) of subsection (1), give 24 hours' notice of his intention to enter any house, premises or building to the occupier thereof and to the owner, if the owner is known.

(3) An authorisation under this section shall be in writing and shall state the particular purpose or purposes for which the entry is authorised.

Offences

318 Penalty for obstructing execution of Act.

If any person obstructs any officer of a local authority or any officer of the Secretary of State or any person authorised to enter houses, premises or buildings in pursuance of this Act in the performance of anything which such officer, authority or person is by this Act required or authorised to do, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

319 Penalty for preventing execution of works, etc.

(1) If any person, after receiving notice of the intended action—

(a) being the occupier of any premises, prevents the owner or other person having control of them, or his officers, agents, servants or workmen from carrying into effect with respect to those premises any of the provisions of Part VIII (other than section 173 and the provisions relating to control orders) or any of the provisions of Part V or any of the provisions of a byelaw made under section 313; or

(b) being the owner or occupier of any premises, or a person having control of any premises, prevents any officers, agents, servants or workmen of the local authority, from so doing; or

(c) being the occupier of any part of a house subject to a control order under Part VIII, prevents any officers, agents, servants or workmen of the local authority from carrying out any works in the house,

the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the place on proof thereof may order that person to permit to be done on the premises all things requisite for carrying into effect such provisions with respect to the premises or, in a case falling under paragraph (c), everything which the local authority consider necessary.

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(2) If any such person fails to comply with such an order, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modifications etc. (not altering text)

C49 S. 319 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).
S. 319 modified (27.8.1993) by 1993 c. 11, **ss. 62(2)(d)**, 68(2).

320 Penalty for damage to houses, etc.

Any person who wilfully or by culpable negligence damages or suffers to be damaged any house provided under this Act, or any of the fittings or appurtenances of any such house, including the drainage and water supply and any apparatus connected with the drainage or water supply, and the fence of any enclosure, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale, without prejudice to any remedy for the recovery of the amount of the damage.

321 Liability of directors, etc. in case of offence by body corporate.

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) Subject to subsection (3), where a person is convicted of an offence under subsection (1) and the body corporate in question is liable under sections 152 to 177 to a higher penalty by reason of a previous conviction than it would have been if not so convicted, that person shall be liable under those sections to the same penalties as the body corporate would be liable if a natural person, including imprisonment.

(3) The person mentioned in subsection (2) shall not be so liable if he shows—

(a) at the time of the offence he did not know of the previous conviction; and

(b) at the time of the previous conviction he was not acting, or purporting to act, as a director, manager, secretary, or other similar officer of the body corporate.

Powers of sheriff for housing purposes

322 Sheriff may determine lease in certain cases.

(1) Where in respect of any premises that are leased—

(a) a closing order, a demolition order or a resolution passed under section 125 has become operative, and

(b) the lease is not determined,

the landlord, the tenant, or any other person deriving right under the lease may apply to the sheriff within whose jurisdiction the premises are situated for an order determining the lease.

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(2) On any such application the sheriff, after giving to any subtenant or other person whom he considers to be interested in the matter an opportunity of being heard, may, if he thinks fit, order that the lease shall be determined, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation or damages or otherwise) as he may think it just and equitable to impose.

(3) In making an order under subsection (2) the sheriff shall have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.

(4) The sheriff shall not be entitled to order any payment to be made by the landlord to the tenant in respect of the lease of a house.

(5) In this section the expression "lease" includes a sublease and any tenancy or tacit relocation following on a lease.

323 Sheriff may authorise superior to execute works, etc.

(1) Subject to the provisions of this section, the superior of any lands and heritages may apply to the sheriff for an order entitling him to enter on those lands and heritages to execute works (including demolition works) within such period as may be specified in the order.

(2) The sheriff may make such an order if—

(a) the following notices or orders under this Act in respect of those lands and heritages are not being complied with—

(i) a notice requiring the execution of works, or

(ii) a closing order, or

(iii) a notice or resolution requiring the demolition of a building under Part VI, and

(b) the interests of the superior are thereby prejudiced, and

(c) the sheriff thinks it just to make the order.

(3) Before an order is made under this section notice of the application shall be given to the local authority.

324 Procedure on applications and appeals to sheriff.

(1) An application to the sheriff under paragraph 5 of Schedule 10 (restriction on contracting out) or section 110 (recovery of expenses by lessee) or Part VIII (houses in multiple occupation) shall be made by a summary application, and the sheriff's decision on any such application shall be final.

(2) The Court of Session may prescribe by rules of court the procedure on any appeal to the sheriff under this Act.

(3) The sheriff may, before considering an appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the expenses of the appeal as may be prescribed by rules of court.

(4) The sheriff in deciding an appeal under this Act may make such order as he thinks just.

(5) Any such order shall be final.

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(6) In the case of an appeal against a notice given or an order made by a local authority, the sheriff may either confirm, vary or quash the notice or order.

(7) The sheriff—

(a) may at any stage of the proceedings on an appeal under this Act, state a case to the Court of Session on any question of law that arises;

(b) shall do so if so directed by the Court of Session.

(8) A notice or order in respect of which an appeal lies to the sheriff under this Act (other than Part VIII) shall not have effect until either—

(a) the time for appealing has expired without an appeal being made, or

(b) in a case where an appeal is made, the appeal is determined or abandoned,

and no work shall be done or proceedings taken under such notice or order until it has effect.

Service

325 Occupier or tenant may be required to state interest.

(1) A local authority may, for the purpose of enabling them to serve—

(a) any order made by them under section 114 or section 115, or section 119; or

(b) any notice which they are by this Act authorised or required to serve,

require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his own interest in the premises and the name and address of any other person known to him as having an interest in them whether as holder of a heritable security, lessee or otherwise.

(2) Any person who has been required by a local authority under subsection (1) to give them any information and either fails to do so or knowingly makes a false statement, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Modifications etc. (not altering text)
C50 S. 325 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).

326 Service by description on certain persons whose identity is unknown and on a number of persons of one description.

(1) An order, notice or other document required or authorised to be served under this Act on any person as a person having control of premises may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by addressing it to him by the description of "person having control of" the premises (naming them) to which it relates and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(2) A document to be served on the person having control of premises, or on the person managing premises, or on the owner of premises under Parts IV, V, VI and VIII may be served on more than one person who comes within those descriptions.

Status: *Point in time view as at 30/01/2004.*
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Landlord's identity

327 Disclosure of landlord's identity.

(1) If the tenant of premises occupied as a house makes a written request for the landlord's name and address to any person who demands or to the last person who received rent payable under the tenancy or to any other person for the time being acting as agent for the landlord in relation to the tenancy, and that person fails without reasonable excuse to supply a written statement of the name and address within the period of 21 days beginning with the day on which he receives the tenant's request, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In any case where—

(a) in response to a request under subsection (1), a tenant is supplied with the name and address of the landlord of the premises concerned; and

(b) the landlord is a body corporate; and

(c) the tenant makes a further written request to the landlord for information under this subsection,

the landlord shall, within the period of 21 days beginning with the day on which he receives the request under this subsection, supply to the tenant a written statement of the name and address of every director and the secretary of the landlord.

(3) Any reference in subsection (1) or subsection (2) to a person's address is a reference to his place of abode or his place of business or, in the case of a company, its registered office.

(4) A request under subsection (2) shall be deemed to be duly made to the landlord if it is made to an agent of the landlord or to a person who demands the rent of the premises concerned, and any such agent or person to whom such a request is made shall as soon as may be forward it to the landlord.

(5) A landlord who fails without reasonable excuse to comply with a request under subsection (2) within the period mentioned in that subsection and a person who fails without reasonable excuse to comply with any requirement imposed on him by subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) In this section—

"landlord" means the immediate landlord and, in relation to premises occupied under a right conferred by an enactment, includes the person who, apart from that right, would be entitled to possession of the premises;

"tenant" includes a sub-tenant and a tenant under a right conferred by an enactment.

328 Duty to inform tenant of assignation of landlord's interest.

(1) If the interest of the landlord under a tenancy of premises which consist of or include a house is assigned, the person to whom that interest is assigned (in this section referred to as "the new landlord") shall, within the appropriate period, give notice in writing to the tenant of the assignation and of the name and address of the new landlord.

Status: *Point in time view as at 30/01/2004.*
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(2) In subsection (1), "the appropriate period" means the period beginning on the date of the assignation in question and ending either two months after that date or, if it is later, on the first day after that date on which rent is payable under the tenancy.

(3) Subject to subsection (4), the reference in subsection (1) to the new landlord's address is a reference to his place of abode or his place of business or, if the new landlord is a company, its registered office.

(4) If trustees as such constitute the new landlord, it shall be a sufficient compliance with the obligation in subsection (1) to give the name of the new landlord to give a collective description of the trustees as the trustees of the trust in question, and where such a collective description is given—

(a) the address of the new landlord for the purpose of that subsection may be given as the address from which the affairs of the trust are conducted; and

(b) a change in the persons who are for the time being the trustees of the trust shall not be treated as an assignation of the interest of the landlord.

(5) If any person who is the new landlord under a tenancy falling within subsection (1) fails, without reasonable excuse, to give the notice required by that subsection, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) In this section, "tenancy" includes a sub-tenancy and a statutory tenancy, within the meaning of the [M65]Rent (Scotland) Act 1984 **[**[F350]and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988**]** and "tenant" shall be construed accordingly.

(7) In this section, "assignation" means a conveyance or other transfer (other than in security), and any reference to the date of the assignation means the date on which the conveyance or other transfer was granted, delivered or otherwise made effective.

Textual Amendments

F350 Words inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 19**

Marginal Citations

M65 1984 c. 58.

Powers of Secretary of State

329 Power of Secretary of State in event of failure of local authority to exercise powers.

(1) In any case where—

(a) a complaint has been made to the Secretary of State as respects the district of any local authority, by any four or more local government electors of the area, that the local authority have failed to exercise any of their powers under this Act in any case where those powers ought to have been exercised; or

(b) the Secretary of State is of opinion that an investigation should be made as to whether a local authority have so failed,

the Secretary of State may cause a public local inquiry to be held.

Status: *Point in time view as at 30/01/2004.*
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(2) If, after the inquiry has been held, the Secretary of State is satisfied that there has been such a failure on the part of the local authority, he may, after giving the authority an opportunity of making representations, make an order enabling him to exercise such of those powers as may be specified in the order.

(3) Any expenses incurred by the Secretary of State in exercising such powers shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State shall on demand be paid by the local authority to the Secretary of State and shall be recoverable as a debt due to the Crown.

(4) The payment of any such expenses shall, so far as the expenses are of a capital nature, be a purpose for which a local authority may borrow money.

(5) The Secretary of State may by order vest in and transfer to the local authority any property, debts or liabilities acquired or incurred by him in exercising the powers of the authority.

(6) If an order made under subsection (2) is revoked, the Secretary of State may, either by the revoking order or by a supplementary order, make such provision as appears to him desirable with respect to the transfer, vesting and discharge of any property, debts or liabilities acquired or incurred by the Secretary of State in exercising the powers and duties to which the order so revoked related.

Modifications etc. (not altering text)
C51 S. 329 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).

330 Power of Secretary of State to prescribe forms, etc.

(1) Subject to the provisions of this Act, the Secretary of State may by statutory instrument make regulations prescribing—

(a) the form of any notice, advertisement, statement or other document which is required or authorised to be used under, or for the purposes of, this Act;

(b) any other thing required or authorised to be prescribed under this Act.

(2) The forms so prescribed or forms as near as may be to those forms shall be used in all cases to which those forms apply.

Modifications etc. (not altering text)
C52 S. 330 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).

331 Regulations: procedure.

Subject to the provisions of this Act, regulations made by a statutory instrument under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 30/01/2004.*
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332 Secretary of State's power to dispense with advertisements and notices.

(1) The Secretary of State may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if he is satisfied that there is reasonable cause for dispensing with the publication or service.

(2) Any such dispensation may be given by the Secretary of State either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Secretary of State thinks fit, due care being taken by the Secretary of State to prevent the interests of any person being prejudiced by the dispensation.

333 Local inquiries.

For the purposes of the execution of his powers and duties under this Act, the Secretary of State may cause such local inquiries to be held as he may think fit.

Miscellaneous

334 Power of heir of entail to sell land for housing purposes.

Without prejudice to any powers, whether statutory or otherwise, already enjoyed by an heir of entail in possession of an entailed estate in Scotland to sell any part of such estate, any such heir in possession may, notwithstanding any prohibition or limitation in any deed of entail or in any Act of Parliament, sell any part or parts of such estate—

(a) to a local authority for any purpose for which a local authority may acquire land under this Act, or

(b) to a housing association for the purpose of the provision of houses,

without its being necessary to obtain the consent of the next heir, and without any restrictions as to the extent of ground to be sold, excepting however, from the provisions of this section the subjects excepted in section 4 of the [M66]Entail (Scotland) Act 1914:

Provided that the price of land so sold shall, in accordance with the provisions of the Entail Acts, be invested for behoof of the heir of entail in possession and succeeding heirs of entail.

Marginal Citations

M66 1914 c. 43.

335 Crown rights.

Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, or authorise the use of or interference with any land (including tidal lands below high-water mark of ordinary spring tides) belonging to Her Majesty in right of the Crown or to any government department, without the consent of Her Majesty or the government department, as the case may be.

Status: *Point in time view as at 30/01/2004.*
Changes to legislation: *Housing (Scotland) Act 1987 is up to date with all changes known to be in force on or before 02 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

336 Limitation on liability of trustee etc. for expenses incurred by local authority.

(1) Where a local authority seek to recover expenses incurred by them under any enactment in respect of work done on a house from a person mentioned in subsection (2), that person's liability shall, if he proves the matters mentioned in subsection (3), be limited to the total amount of the funds, rents and other assets which he has, or has had, in his hands.

In this section "house" includes a building which contains a house, or a part of such a building.

(2) The person mentioned in subsection (1) is a person who receives the rent of the house as trustee, tutor, curator, factor or agent for or of some other person or as the liquidator of a company.

(3) The matters that person requires to prove are—

(a) that he is a person mentioned in subsection (2); and

(b) that he has not, and since the date of service on him of a demand for payment of the expenses has not had, in his hands on behalf of that other person or, in the case of a liquidator of a company, on behalf of the creditors or members of the company, sufficient funds, rents and other assets to pay those expenses in full.

(4) Nothing in this section affects any right of a local authority to recover the whole or any part of those expenses from any other person.

Modifications etc. (not altering text)

C53 S. 336 applied (27.8.1993) by 1993 c. 11, **ss. 62(2)(a)(ii)**, 68(2).
S. 336 applied (with modifications) (27.8.1993) by 1993 c. 12, **ss. 30(4)**, 51(2) (with ss. 42, 46).

337 . . . . . F351

Textual Amendments

F351 S. 337 repealed by Local Government Act 1988 (c. 9, SIF 81:1), ss. 19(11)(b), 23, 41, **Sch. 7 Pt. I**

338 Interpretation.

(1) In this Act, unless the context otherwise requires—

"Act of 1966" means the M67Housing (Scotland) Act 1966;

"Act of 1968" means the M68Housing (Financial Provisions) (Scotland) Act 1968;

"Act of 1969" means the M69Housing (Scotland) Act 1969;

"Act of 1972" means the M70Housing (Financial Provisions) (Scotland) Act 1972;

"Act of 1974" means the M71Housing (Scotland) Act 1974;

"Act of 1978" means the M72Housing (Financial Provisions) (Scotland) Act 1978;

"Act of 1980" means the M73Tenants' Rights, Etc. (Scotland) Act 1980;

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"Act of 1985" means the [M74]Housing Act 1985;

"Act of 1986" means the [M75]Housing (Scotland) Act 1986;

[[F352]"agricultural holding" means the land comprised in a lease constituting a 1991 Act tenancy within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11) or the land comprised in a lease constituting a short limited duration tenancy or a limited duration tenancy (within the meaning of that Act);**]**

"agriculture" means the use of land for agricultural or pastoral purposes, or for the purpose of poultry farming or market gardening, or as an orchard or woodlands, or for the purpose of afforestation, and "agricultural worker" shall be construed accordingly;

"apparatus" means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic power, gas or electricity, and standards and brackets carrying road lighting;

"bank" means—

[[F353](a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,

(ab) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits, or**]**

(b) a company as to which the Secretary of State was satisfied immediately before the repeal of the [M76]Protection of Depositors Act 1963 that it ought to be treated as a banking company or discount company for the purposes of that Act;

"building regulations" means any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made, relating to the construction of new buildings and the laying out of and construction of new roads;

"building society" means a building society within the meaning of the [M77]Building Societies Act 1986;

"closing order" means a closing order made under sections 114 or 119;

"Corporation" means the Housing Corporation;

"croft" and "crofter" have the like meanings respectively as in the Crofters (Scotland) Acts 1955 and 1961;

"demolition order" has the meaning assigned to it by section 115;

"development corporation" means a development corporation established by an order made or having effect as if made under the [M78]New Towns (Scotland) Act 1968;

"disabled occupant" has the meaning assigned to it by section 236;

"disabled person" has the meaning assigned to it by section 236;

"Exchequer contribution" means a payment (other than a payment by way of advance or loan) which the Secretary of State is required or authorised by or under any Act relating to housing, to make for housing purposes;

"family" and any reference to membership thereof shall be construed in accordance with section 83;

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"financial year", in relation to a local authority, has the same meaning as in section 96(5) of the [M79]Local Government (Scotland) Act 1973;

"flat" means a separate and self-contained set of premises, whether or not on the same floor and forming part of a building from some other part of which it is divided horizontally;

"friendly society" means a society registered under the [M80]Friendly Societies Act 1974 or earlier legislation;

"holding" has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

"hostel" has the meaning assigned to it by section 2(5);

"house" (except in relation to Part XIV) includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat, and includes also any yard, garden, out-houses and pertinents belonging to the house or usually enjoyed therewith and also includes any structure made available under section 1 of the [M81]Housing (Temporary Accommodation) Act 1944;

"housing action area" means a housing action area within the meaning of Part IV;

"housing association" has the same meaning as it has in the [M82]Housing Associations Act 1985;

"housing support grant" has the meaning assigned to it by section 191;

"improvement" has the meaning assigned to it by section 236(2);

"improvement grant" has the meaning assigned to it by section 236(1);

[[F354]"insurance company" means—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;**]**

"land" includes any estate or interest in land;

"landholder" has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

"Lands Tribunal" means the Lands Tribunal for Scotland;

"loan charges" means, in relation to any borrowed moneys, the sum required for the payment of interest on those moneys and for the repayment thereof either by instalments or by means of a sinking fund;

[[F355]"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and the district of a local authority means the area of such a council;**]**

"official representation" means, in the case of a local authority, a representation made to the authority by the proper officer of the local authority;

"open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground;

"order for possession" has the meaning assigned to it by section 115(1) of the [M83]Rent (Scotland) Act 1984;

"overspill agreement" has the same meaning as in section 9(1) of the [M84]Housing and Town Development (Scotland) Act 1957;

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"owner" includes any person who under the Lands Clauses Acts would be enabled to sell and convey land to the promoters of an undertaking, but in Part XIII and sections 99 to 104, in relation to a house, means the person who is for the time being entitled to receive the rent of the house or who, if the house were let, would be so entitled and a tenant-at-will;

"prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument;

"proper officer", in relation to any purpose of a local authority, means an officer appointed for that purpose by that authority;

"public undertakers" means any corporation, company, body or person carrying on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . F356, water or other public undertaking **[**F357(including a universal service provider (within the meaning of the Postal Services Act 2000) in connection with the provision of a universal postal service (within the meaning of that Act))**]**;

"registered housing association" means a housing association registered under the M85Housing Associations Act 1985;

[F358"registered social landlord" has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);**]**

"regular armed forces of the Crown" means the Royal Navy, the regular forces as defined by section 225 of the M86Army Act 1955, the regular air force as defined by section 223 of the M87Air Force Act 1955, Queen Alexandra's Royal Naval Nursing Service and the Women's Royal Naval Service;

"repairs grant" has the meaning assigned to it by section 248;

"road" has the same meaning as it has in the Roads (Scotland) Act 1984;

[F359"Scottish secure tenancy" and "short Scottish secure tenancy" have the same meanings as in the Housing (Scotland) Act 2001 (asp 10);**]**

"secure tenancy" has the meaning assigned to it by section 44;

"sell" and "sale" include feu;

"a service charge" means any charge referred to in section 211;

F360. . .

"standard amenities" has the meaning assigned to it by section **[**F361244(1A)**]** ;

"statutory small tenant" has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

"statutory tenant" has the same meaning as it has in section 3 of the Rent (Scotland) Act 1984;

"superior" includes the creditor in a ground annual;

"tenancy" in Parts IV and XIII includes a sub-tenancy, a statutory tenancy within the meaning of section 115(1) of the Rent (Scotland) Act 1984 and a contract to which Part VII of that Act applies **[**F362and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988**]** and "tenant" shall be construed accordingly; and any reference to a tenancy of a house or to the tenant thereof shall be construed as including a reference to all the tenancies of that house or to all the tenants thereof as the case may be;

"tolerable standard" has the meaning assigned to it by section 86;

F363. . .

"year" means, in relation to a local authority, a financial year within the meaning of section 96(5) of the Local Government (Scotland) Act 1973

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and, in relation to a development corporation, the Scottish Special Housing Association or a housing association, means a year ending on 31st March;

"the year 1986-87" means the year beginning in 1986 and ending in 1987, and so on.

[F364(1A) The definitions of "bank" and "insurance company" in subsection (1) 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.]

(2) For the purposes of this Act—

(a) the person who for the time being is entitled to receive, or would, if the same were let, be entitled to receive, the rent of any premises, including a trustee, tutor, curator, factor or agent, shall be deemed to be the person having control of the premises; and

(b) a crofter or a landholder shall be deemed to be the person having control of any premises on his croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Crofters (Scotland) Acts 1955 and 1961 or, as the case may be, the Small Landholders (Scotland) Acts 1886 to 1931, as for an improvement.

(3) In this Act, any reference to the demolition of a building shall be deemed to include a reference to such reconstruction of the building as the local authority may approve; and where a building is so reconstructed any reference to selling, letting or appropriating the land, the building on which has been or will be demolished, shall, unless the context otherwise requires, be construed as a reference to selling, letting or appropriating the land and the reconstructed building.

Textual Amendments

F352 Words in s. 338 substituted (27.11.2003) by Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 10(b)**

F353 Words in s. 338(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(2)(a)

F354 Words in s. 338(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(2)(b)

F355 Definition of "local authority" in s. 338(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(7)(a)**; S.I. 1996/323, **art. 4**

F356 Word in s. 338(1) repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

F357 Words in s. 338(1) added (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 73**

F358 Words in s. 338(1) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(41)(a)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F359 Words in s. 338(1) inserted (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(41)(b)**; S.S.I. 2002/321, art. 2, **Sch.** (with transitional provisions and savings in arts. 3-5)

F360 Words in s. 338(1) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)

F361 Word in s. 338(1) substituted (1.10.2003) by Housing (Scotland) Act 2001 (asp 10), s. 113(1), **sch. 10 para. 13(41)(c)**; S.S.I. 2003/434, art. 2, sch. (with arts. 3, 4)

F362 Words in s. 338(1) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 20**

F363 Words in s. 338(1) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)

F364 S. 338(1A) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(3)

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Modifications etc. (not altering text)

C54 S. 338 extended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 Pt. I para. 15**

C55 S. 338(1) amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 26**

Marginal Citations

M67 1966 c. 49.
M68 1968 c. 31.
M69 1969 c. 34.
M70 1972 c. 46.
M71 1974 c. 45.
M72 1978 c. 14.
M73 1980 c. 52.
M74 1985 c. 68.
M75 1986 c. 65.
M76 1963 c. 16.
M77 1986 c. 53.
M78 1968 c. 16.
M79 1973 c. 65.
M80 1974 c. 46.
M81 1944 c. 36.
M82 1985 c. 69.
M83 1984 c. 58.
M84 1957 c. 38.
M85 1985 c. 69.
M86 1955 c. 18.
M87 1955 c. 19.

339 Minor and consequential amendments, transitional provisions and repeals.

(1) This Act shall have effect subject to the transitional provisions and savings contained in Schedule 22.

(2) The enactments specified in Schedule 23 shall have effect subject to the amendments set out in that Schedule being minor amendments and amendments consequential on the provisions of this Act.

(3) The enactments specified in Schedule 24 are hereby repealed to the extent specified in the third column of that Schedule.

340 Citation, commencement and extent.

(1) This Act may be cited as the Housing (Scotland) Act 1987.

(2) This Act shall come into force at the end of the period of 3 months beginning with the day on which it is passed.

(3) This Act extends to Scotland only.

Status:
Point in time view as at 30/01/2004.

Changes to legislation:
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