Local Government and Housing Act 1989

1989 CHAPTER 42

PART IX

MISCELLANEOUS AND GENERAL

Miscellaneous housing provisions

161 Housing authorities not required to keep a housing stock.

(1) At the end of section 9 of the [M1]Housing Act 1985 (provision of housing accommodation) there shall be added the following subsection—

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

(2) At the end of section 2 of the [M2]Housing (Scotland) Act 1987 (powers of local authorities to provide housing accommodation) there shall be added the following subsection—

"(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."

Marginal Citations

M1 1985 c. 68.
M2 1987 c. 26.

162 Determination of rents.

In section 24 of the Housing Act 1985 (rents), there shall be added at the end the following subsections—

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"(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.

(4) In subsection (3) "private sector rents", in relation to houses of any classor description, means the rents which would be recoverable if they were let on assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority."

163 Exchanges between secure and assured tenants.

(1) Section 92 of the Housing Act 1985 (assignment of secure tenancies by way of exchange) shall be amended in accordance with subsections (2) and (3) below.

(2) At the end of subsection (1) there shall be added the words " or to anassured tenant who satisfies the conditions in subsection (2A) ".

(3) After subsection (2) there shall be inserted the followingsubsection—

"(2A) The conditions to be satisfied with respect to an assured tenant are—

(a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and

(b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2)."

(4) In section 117 of the Housing Act 1985 (index of defined expressions for Part IV) before the entry relating to "cemetery" there shall be inserted—

" assured tenancy »section 622 ".

[F1]164 Exception to the right to buy in case of certain dwelling-houses forpersons of pensionable age.

. . . . . .

Textual Amendments

F1 S. 164 repealed (11.10.1993) by 1993 c. 28, s.187(2), **Sch.22**; S.I. 1993/2134, art.4(b), **Sch. 2** (with Sch. 1 para. 4(1)(2))

165 Unfit housing etc.

(1) In the Housing Act 1985,—

(a) Part VI (repair notices) shall be amended in accordance with Part I of Schedule 9 to this Act;

(b) Part IX (slum clearance) shall be amended in accordance with Part II of that Schedule;

(c) Part XI (houses in multiple occupation) shall be amended in accordance with Part III of that Schedule;

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(d) Part XVII (compulsory purchase and land compensation) shall be amended in accordance with Part IV of that Schedule; and

(e) Part XVIII (miscellaneous and general) shall be amended in accordance with Part V of that Schedule.

(2) Part VII of the Housing Act 1985 (improvement notices) shall cease to have effect.

(3) For any financial year beginning after the day appointed for the coming into force of this subsection the following provisions of this section shall have effect in place of sections 312 to 314 of the Housing Act 1985 (slum clearance subsidy); and in those provisions "slum clearance functions" means any of the functions under the provisions of Part IX of that Act relating to—

(a) the demolition, closing or purchase of unfit premises,

(b) the demolition of obstructive buildings, and

(c) clearance areas,

but does not include functions under sections 308 to 311 of that Act (owner's redevelopment or improvement).

(4) On such conditions as he may determine the Secretary of State may pay slum clearance subsidy to a local housing authority in respect of any financial year for which, applying such method of calculation as may be determined by the Secretary of State, the authority have incurred a loss in connection with the exercise of their slum clearance functions; and the rate or rates of the subsidy and the manner in which it is paid shall be such as may be determined by him.

(5) If for any financial year, applying such method of calculation as is referred to in subsection (4) above, a local housing authority have incurred a surplus in connection with the exercise of their slum clearance functions, the Secretary of State may require the authority to pay to him such sum as he may determine in respect of that surplus, together with interest thereon from such time and at such rate or rates as he may determine.

(6) Any determination of the Secretary of State under subsection (4) or subsection (5) above—

(a) shall be made with the consent of the Treasury;

(b) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area; and

(c) may make different provision for different cases or descriptions of case.

(7) If, before the declaration of a renewal area under Part VII of this Act,a local housing authority are satisfied that the rate of slum clearance subsidy which, in accordance with a determination under subsection (4) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for a subsidy at a higher rate in respect of that area.

(8) An application under subsection (7) above shall be made in such form and contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.

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(9) If an application under subsection (7) above is approved, the Secretary of State may pay slum clearance subsidy in respect of the area concerned at such higher rate as he may determine under subsection (4) above.

166 Amendments relating to defective housing.

(1) Part XVI of the [M3]Housing Act 1985 (in this section referred to as "the 1985 Act") and Part XIV of the [M4]Housing (Scotland) Act 1987 (in this section referred to as "the 1987 Act") (assistance for owners of defective housing)shall each be amended in accordance with this section.

(2) In section 537 of the 1985 Act and section 265 of the 1987 Act (determination of form of assistance to which applicant is entitled) insubsection (1) after the word "determine" there shall be inserted " assoon as reasonably practicable ".

(3) In section 539 of the 1985 Act and section 267 of the 1987 Act (meaning of "work required for reinstatement" etc.) after subsection (1) there shall be inserted the following subsection—

"(1A) In any case where—

(a) the most satisfactory way of dealing with the qualifying defect issubstantially 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."

(4) In section 561 of the 1985 Act and section 289 of the 1987 Act (Secretary of State's control over designation, variation or revocation)—

(a) in subsection (2) after the word "before" there shall be inserted " the cut-off date or if it is later " and after the words "twomonths" there shall be inserted " or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A)below ";

(b) after that subsection there shall be inserted the subsection specified insubsection (5) below; and

(c) in subsection (3) for the words "within that period" there shall be substituted " before 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 ".

(5) The subsection referred to in subsection (4)(b) above is as follows—

"(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 there solution 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."

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(6) In section 567 of the 1985 Act (modifications of Part XVI in relation to shared ownership leases) for subsections (1) to (3) there shall be substituted the following subsections—

"(1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—

(a) a shared ownership lease, or

(b) the freehold acquired under the terms of a shared ownership lease,

the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.

(2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him."

(7) Any power of the Secretary of State to make regulations under subsection (4) of section 567 of the 1985 Act shall cease to have effect; and in paragraph (d) of that subsection after the word "class" there shall be inserted " or description ".

Marginal Citations

M3 1985 c. 68.

M4 1987 c.26.

[F2]167 Reports to tenants etc. on local housing authority functions.

. . . . . .

Textual Amendments

F2 S. 167 repealed (17.2.2005 for E., 14.7.2005 for W.) by Housing Act 2004 (c. 34), ss. 227, 270(4)(5)(c), **Sch. 16**; S.I. 2005/326, art. 2(b); S.I. 2005/1814, arts. 1(2), 2(b)

168 Contributions towards costs of housing mobility arrangements.

(1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for enabling or assisting persons to move and become,—

(a) in England and Wales, tenants or licensees of dwellings; and

(b) in Scotland, tenants of houses.

(2) The grants or loans may be made subject to such conditions as the Secretary of State may determine and may be made so as to be repayable or, as the case may be, repayable earlier if there is a breach of such a condition.

(3) In this section—

"dwelling" means a building or a part of a building occupied or intended to be occupied as a separate dwelling;

"house" has the same meaning as in the [M5]Housing (Scotland) Act 1987; and

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"tenant" does not include a tenant under a long lease within the meaning of the [M6]Landlord and Tenant Act 1987 or, as respects Scotland, under a lease for a period exceeding 20 years.

(4) Section 107 of the [M7]Housing Act 1985 and section 80 ofthe Housing (Scotland) Act 1987 (which make provision similar to that made by the preceding provisions of this section, but limited to secure tenants) shall cease to have effect.

Marginal Citations

M5 1987 c.26.
M6 1987 c. 31.
M7 1985 c. 68.

169 Powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them.

(1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.

(2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—

(a) works to cause the dwelling to be fit for human habitation,

(b) where the occupant is disabled, works for any of the purposes specified in **[**[F3]section 23 of the Housing Grants, Construction and Regeneration Act 1996 (disabled facilities grants: purposes)**]**,

[F4](c) . . . . . .

[F4](d) . . . . . .

(3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—

(a) to consider whether or not to make a charge for exercising it; and

(b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.

(4) A relevant authority shall have power to give financial assistance in any form to—

(a) any housing association,

(b) any charity, or

(c) any body, or body of any description, approved by the Secretary of State,

towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.

(5) It shall be the duty of a relevant authority—

(a) in deciding whether to exercise any power conferred by subsection (4)above in relation to any association, charity or body, to have regard to the existence

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and extent of any financial assistance available from other personsto that association, charity or body; and

(b) in exercising any power conferred by subsection (4) above in relation toany association, charity or body—

(i) to have regard to whether that association, charity or body has made or will make charges and their amount; and

(ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.

(6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision,whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

(7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.

(8) The person receiving assistance shall comply with the terms on which itis given and compliance may be enforced by the Secretary of State.

(9) In this section—

"charity" means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court's jurisdiction with respect to charities;

"housing association" means a housing association within the meaning of section 1(1) of the [M8]Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such **[**[F5]works**]**;

"local housing authority" shall be construed in accordance with section 1 of the [M9]Housing Act 1985; and

"relevant authority" means a local housing authority or county council.

Textual Amendments

F3 Words in s. 169(2)(b) substituted (17.12.1996) by 1996 c. 53, s. 103, **Sch. 1 para. 15(1)(2)**; S.I. 1996/2842, **art. 3**

F4 S. 169(2)(c)(d) repealed (19.7.2003) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), art. 1(3), Sch. 4 para. 3, **Sch. 6**

F5 S. 169(9): words in definition of "housing association" substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(6)**

Marginal Citations

M8 1985 c. 69.

M9 1985 c. 68.

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170 Powers of local authorities and Secretary of State as respects services,etc., for owners and occupiers of houses for work on them: Scotland.

(1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of houses in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.

(2) Relevant works are such works as may be specified in regulations made by the Secretary of State and such works may be so specified by reference to such factors (including factors relating to persons of such descriptions as may be so specified) as the Secretary of State thinks fit.

(3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—

(a) to consider whether or not to make a charge for exercising it; and

(b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.

(4) A relevant authority shall have power to give financial assistance in any form to—

(a) any housing association,

(b) any charity, or

(c) any body, or body of any description, approved by the Secretary of State,

towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of houses in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.

(5) It shall be the duty of a relevant authority—

(a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and

(b) in exercising any power conferred by subsection (4) above in relation toany association, charity or body—

(i) to have regard to whether that association, charity or body has made or will make charges and their amount; and

(ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.

(6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

(7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.

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(8) The person receiving assistance shall comply with the terms on which itis given and compliance may be enforced by the Secretary of State.

(9) In this section—

"charity" means any body, corporate or not, established for charitable purposes;

"charitable purposes" shall be construed in the same way as if it were contained in the Income Tax Acts;

"house" has the meaning given by section 338 of the [M10]Housing (Scotland) Act 1987;

"housing association" means a housing association within the meaning of section 1(1) of the [M11]Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);

"relevant authority" means a **[**[F6]council constituted under section 2 of the Local Government .etc. (Scotland) Act 1994**]**

Textual Amendments

F6 S. 170(9): words in definition of "relevant authority" substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(14)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M10 1987c. 26.

M11 1985 c. 69.

171 Winding up of home purchase assistance scheme.

(1) The Secretary of State may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which—

(a) as respects England and Wales, is contained in sections 445 to 450 of the [M12]Housing Act 1985, and

(b) as respects Scotland, is contained in sections 222 to 227 of the Housing (Scotland) Act 1987,

and in the following provisions of this section, the enactments specified in paragraphs (a) and (b) above together with any orders and directions made under those enactments are referred to as "the assistance legislation".

(2) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection—

(a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;

(b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number of payments of such

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amount and payable at such time or times as may be determined in accordance with the order; and

(c) may provide for the amendment or repeal, in whole or in part, of theassistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.

(3) The following powers, namely,—

(a) the powers conferred on the Secretary of State by subsection (3) ofsection 446 of the Housing Act 1985 and subsection (3) of section 223 of the Housing (Scotland) Act 1987 to relax or modify the conditions in subsection (2) of each of those sections respectively (conditions qualifying a purchaser for assistance), and

(b) any power to make an order under any provision of the assistance legislation,

may be so exercised as to make provision for the purpose referred to in subsection (1) above.

(4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M12 1985 c. 68.

172 Transfer of new town housing stock.

(1) Subject to the following provisions of this section, the Secretary of State may by regulations make provision for requiring and authorising each new town corporation to take such steps as may be prescribed for making and giving effect to proposals for disposing of their housing stock, either by transferring it as a whole to a prescribed person or by transferring different parts of it to different prescribed persons.

(2) Regulations under subsection (1) above shall not require a new town corporation to transfer any dwelling or associated property, rights, liabilities or obligations to any person other than—

(a) the district council **[**F7or Welsh county council or county borough council**]**within whose **[**F8area**]** the dwelling is situated; or

(b) a person approved for the purposes of, and in accordance with, the regulations by the Housing Corporation F9. . ..

(3) Regulations under subsection (1) above shall not require a new town corporation to give effect to a proposal for the transfer of any dwelling if the dwelling is one in respect of which a notice has been served under section 122 of the M13Housing Act 1985 (notice of a claim to exercise the right to buy) before the prescribed time and such other conditions as maybe prescribed are satisfied.

(4) A new town corporation shall not, in pursuance of any regulations under subsection (1) above, transfer any dwellings, or any associated property, rights, liabilities or obligations, to any person except with the consent of the Secretary of State; and the Secretary of State shall not give his consent to a proposed transfer unless he is satisfied—

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(a) that there has been compliance with all such requirements with respect to the publication of information about the proposal and matters connected with its implementation, and with respect to consultation about the proposal, as are prescribed;

(b) that all such steps have been taken as are prescribed for the purpose of protecting the interests of the occupiers of the dwellings or the interests of the occupiers of any dwellings excluded from the proposal by virtue of subsection (3) above or any such consultation; and

(c) that the terms on which the transfer is made—

(i) require such price to be paid for the property transferred as appears to him to be the price which, on the prescribed assumptions, it would realise if sold on the open market by a willing vendor; and

(ii) include all such other terms as are prescribed.

(5) Regulations under subsection (1) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate, including, without prejudice to the generality of the foregoing, provision corresponding to sub-paragraphs (2) and (3) of paragraph 2 of Schedule 12 to the [M14]Housing Act 1988 (matters relating to registration of title).

(6) Subject to subsection (7) below, Part III of the [M15]New Towns Act 1981 (transfer of dwellings and associated property to district councils) shall cease to have effect.

(7) Nothing in subsection (6) above shall—

(a) affect the operation after the time when that subsection comes into force of so much of any transfer scheme made under Part III of the said Act of 1981before that time as contains management arrangements with respect to land in which a new town corporation have an interest;

(b) affect the application after that time of section 50 of that Act (financial arrangements) in relation to any transfer scheme made under that Part before that time; or

(c) prevent the Secretary of State from exercising his power to make grants to a district council **[**[F7]or Welsh county council or county borough council**]** under section 51A of that Act (grants in respect of defects in transferred dwellings) where the grants are paid before the 1st April 1990 or such later date as the Secretary of State may by order made by statutory instrument appoint in relation to that council;

and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section—

"dwelling" means any building or part of a building occupied,or erected or adapted for occupation, as a dwelling or as a hostel (including any land belonging to it or usually enjoyed with it);

"housing stock", in relation to a new town corporation,means—

(a) the dwellings (whether or not in the area of a particular new town) which are vested in that corporation and were erected, adapted or acquired for occupation as dwellings; and

(b) except so far as may be prescribed, any associated property, rights, liabilities and obligations of that corporation;

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"liabilities and obligations", in relation to a new town corporation, includes liabilities and obligations which, apart from the regulations, would not be capable of being assigned or transferred by the corporation, including liabilities and obligations under Part V of the [M16]Housing Act 1985 (the right to buy);

"new town corporation" means the Commission for the New Towns [F10]. . . or a development corporation,within the meaning of the New Towns Act 1981; and

"prescribed" means prescribed by or determined under regulations under subsection (1) above.

(9) For the purposes of this section the following property, rights, liabilities and obligations of a new town corporation shall be treated as associated with any dwellings comprised in their housing stock, that is to say—

(a) any interest of the corporation in any land occupied or set aside for occupation or use with the dwellings;

(b) any interest of the corporation in land in the vicinity of the dwellings which is held by them for the benefit or use of the persons living in those dwellings (rather than the inhabitants of a new town as a whole) or for providing facilities for the persons living in those dwellings, and any other property and any rights of the corporation so held;

(c) any property and rights held by the corporation—

(i) for the administration of an estate comprising the dwellings or any associated property;

(ii) for the maintenance or service of the dwellings or any associated property; or

(iii) otherwise in connection with any such property;

(d) any rights, liabilities and obligations which the corporation have in connection with any of the dwellings or any associated property or in connection with any dwellings which were previously part of their housing stock;

(e) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of persons living in the dwellings (rather than for the use of the inhabitants of a new town as a whole).

Textual Amendments

F7 Words in s. 172(2)(a)(7)(c) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F8 Word in s. 172(2)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F9 Words in s. 172(2)(b) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 75, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

F10 S. 172(8): words in definition of "new town corporation" repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

Marginal Citations

M13 1985 c. 68.

M14 1988 c. 50.

M15 1981 c. 64.

M16 1985 c. 68.

Status: *Point in time view as at 14/07/2005.*
Changes to legislation: *Local Government and Housing Act 1989, Cross Heading: Miscellaneous housing provisions is up to date with all changes known to be in force on or before 19 April 2024. 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)*

173 Consent required for subsequent disposals.

(1) Where a dwelling which is for the time being subject to a secure tenancy is transferred under section 172 above to a person approved as mentioned in subsection (2)(b) of that section (in this section referred to as an "approved person"), that person shall not dispose of it except—

(a) with the consent of the Secretary of State, which may be given either unconditionally or subject to conditions; or

(b) by an exempt disposal, as defined in section 81(8) of the [M17]Housing Act 1988;

and any reference in the following provisions of this section to an initial transfer is a reference to the transfer of a dwelling to an approved person under section 172 above.

(2) Where an estate or interest in a dwelling of the approved person whoacquired it on the initial transfer has been mortgaged or charged, the prohibition in subsection (1) above applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—

(a) by operation of law or by virtue of an order of a court, the dwelling which has been acquired on the initial transfer passes or is transferred from the approved person to another person, and

(b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the dwelling passes or is transferred were the approved person.

(3) Where subsection (1) above applies—

(a) the new town corporation by whom the initial transfer is made shall furnish to the approved person a copy of the consent of the Secretary of State under section 172(4) above; and

(b) the instrument by which the initial transfer is effected shall contain astatement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the dwelling by the approved person.

(4) For the purposes of this section the grant of an option to purchase the fee simple or any other interest in a dwelling is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.

(5) Before giving any consent required by virtue of this section, the Secretary of State—

(a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any dwelling proposed to be disposed of; and

(b) shall have regard to the responses of any such tenants to that consultation.

(6) If, apart from subsection (7) below, the consent of the Housing Corporation [F11]. . . would be required under **[**[F12]section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or**]** section 9 of the [M18]Housing Associations Act 1985 (control of dispositions of land by **[**[F12]unregistered**]**housing associations) for a disposal in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.

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(7) No consent shall be required under **[**F13section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985**]** for any disposal in respect of which consent is given **[**F14under this section**]**.

(8) Where the title of the new town corporation to the dwelling which is transferred by the initial transfer is not registered, and the initial transfer is a **[**F15transfer or grant**]** of a description mentioned in **[**F16section 4 of the Land Registration Act 2002**]** (compulsory registration of title)—

F17(a) . . . . . .

(b) the corporation shall give the approved person a certificate in a form approved by the Chief Land Registrar stating that the corporation is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the initial transfer is effected or summarised in the certificate; and

(c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the **[**F18Land Registration Act 2002**]** the corporation by whom the initial transfer was made is liable to indemnify him.

[F19(9) Where the Chief Land Registrar approves an application for registration of—

(a) a disposition of registered land, or

(b) a person's title under a disposition of unregistered land,

and the instrument effecting the initial transfer contains the statement required by subsection (3) above, he shall enter in the register a restriction reflecting the limitation under this section on subsequent disposal.**]**

(10) In this section—

(a) "dwelling" and "new town corporation" have the same meaning as in section 172 above; and

(b) "secure tenancy" has the meaning assigned by section 79 of the M19Housing Act 1985.

Textual Amendments

F11 Words in s. 173(6) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 76(1)(2), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

F12 Words in s. 173(6) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(a)**

F13 Words in s. 173(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(b)**

F14 Words in s. 173(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 76(1)(3)** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

F15 Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)

F16 Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)

F17 S. 173(8)(a) repealed (1.4.1998) by 1997 c. 2, s. 4(2), **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**

F18 Words in s. 173(8)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(c)** (with s. 129); S.I. 2003/1725, art. 2(1)

F19 S. 173(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(3)** (with s. 129); S.I. 2003/1725, art. 2(1)

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Marginal Citations

M17 1988 c.50.
M18 1985 c. 69.
M19 1985 c. 68.

[F20]174 . . . . . .

Textual Amendments

F20 S. 174 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19**, Pt. IX; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)

175 Repeal of the Town Development Act 1952.

No undertaking shall be given under section 2 or 4 of the [M20]Town Development Act 1952 (Government and local authority contributions for the purposes of town development), and no payment shall be made in pursuance of any such undertaking, at any time after 31st March 1990; and that Act shall cease to have effect except for the purposes of any town development (within the meaning of that Act) in relation to which any undertaking has been given before that date under section 2 of that Act.

Marginal Citations

M20 1952 c.54.

176 Amendment of definition of occupation for purposes of purchase of house by secure tenant: Scotland.

(1) In section 61(10) of the [M21]Housing (Scotland) Act 1987 (definition of occupation of house for purposes of purchase by secure tenant)—

(a) in paragraph (a)(v) (occupation by member of tenant's family succeeding to tenancy may be treated, at discretion of landlord, as occupation for purposes of right to buy) the words "in the discretion of the landlord" shall be omitted; and

(b) in paragraph (b) (rules for determining period of occupation) there shall be added at the end—

"and

(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.".

(2) This section does not apply in any case where the application to purchase the house under section 63(2) of that Act has been served before the coming into force of this section.

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Marginal Citations

M21 1987 c. 26.

[F21177 Sale to secure tenants of houses provided for persons of pensionable age: Scotland.

In section 69 of the Housing (Scotland) Act 1987 (Secretary of State's power to authorise refusal to sell certain houses provided for persons of pensionable age) after subsection (1) there shall be inserted the following subsection—

"(1A) This section applies only to houses first let on a secure tenancy before 1st January 1990."**]**

Textual Amendments

F21 S. 177 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

178 Application of secure tenant's right to buy to cases where landlord is lessee: Scotland.

[F22(1) In section 76 of the Housing (Scotland) Act 1987 (duty of landlords toprovide information to secure tenants)—

(a) in subsection (1)(a)—

(i) for the word "not" there shall be substituted the word " neither "; and

(ii) after the word "house" there shall be inserted the words " nor holds the interest of the landlord under a registered lease of the house or of land which includes it" ";

(b) in subsection (2) for the words "heritable proprietor of the house" there shall be substituted the words " either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it "; and

(c) in subsection (3)(b) at the end there shall be inserted the words " or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it. "**]**

(2) After section 84 of that Act there shall be inserted the following section—

"**84A Application of right to buy to cases where landlord is lessee.**

(1) Sections 61 to 84 (but not 76 or 77) and 216 (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 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.

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(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

F22 S. 178(1) repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

[F23 179 Amendment of powers of Scottish Homes to dispose of land.

(1) In section 2 of the M22 Housing (Scotland) Act 1988 (which, amongst other things, enables Scottish Homes to dispose of land)—

(a) in subsection (2) (powers of Scottish Homes), after "(3)" there shall be inserted " and (3A) ";

(b) in subsection (3)(b)—

(i) after "above" there shall be inserted the words " , other than the power under paragraph (h) to dispose of land, "; and

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(ii) for the word "with" where secondly occurring there shall be substituted the words " between it and ";

(c) after subsection (3) there shall be inserted the following subsection—

"(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent may be given in relation to particular cases or classes of case and may be made subject to conditions).''; and

(d) subsection (6) (certain land not to be disposed of, without consent, for less than best price) shall be omitted.**]**

Textual Amendments

F23 S. 179 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

Marginal Citations

M22 1988 c. 43.

180 Race relations: codes of practice in housing field.

The amendments of section 47 of the [M23]Race Relations Act 1976 (codes of practice) made by subsections (2) and (3) of section 137 of the [M24]Housing Act 1988 (codes of practice in the field of rented housing) shall be varied as follows—

(a) in subsection (1)(c) of the said section 47 the words following "field of housing" shall be omitted; and

(b) the word "rented", where it occurs in subsections (1)(d) and (3A) of that section, shall be omitted.

Marginal Citations

M23 1976 c. 74.

M24 1988 c. 50.

[F24181 Duty of landlord to inform secure tenant seeking to buy house about changes in law: Scotland.

In section 76 of the [M25]Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants) there shall be added at the end the following subsections—

"(4) Where—

(a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and

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(b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

(5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change."**]**

Textual Amendments

F24 S. 181 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

Marginal Citations

M25 1987 c. 26.

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