



# 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](#)
- C2** [Pt. I](#) modified (1.12.2014 for specified purposes, 1.2.2016 for E. in so far as not already in force) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 3 para. 2\(4\)](#); [S.I. 2014/2771, art. 6\(1\)\(m\)](#); [S.I. 2016/11, art. 2\(m\)](#)

#### *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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## 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.

[<sup>F1</sup>(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 <sup>M1</sup>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.

<sup>F2</sup>(3) .....

**Textual Amendments**

F2 S. 5(3) repealed (1.9.2009 at 5.00 a.m.) by Licensing (Scotland) Act 2005 (asp 16), s. 150(2), sch. 7 (with s. 143); S.S.I. 2007/472, art. 3

**[<sup>F3</sup>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

**F3** S. 5A inserted (retrospectively) by 1993 c. 28, ss. 149, 188(2)(b).

#### [<sup>F4</sup>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

**F4** 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 <sup>M2</sup>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 <sup>M3</sup>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 <sup>M4</sup>Land Compensation (Scotland) Act 1963, subject to the rules set out in Schedule I.

### Marginal Citations

- M2** 1973 c. 65.  
**M3** 1947 c. 42.  
**M4** 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 <sup>M5</sup>Lands Clauses Consolidation (Scotland) Act 1845.

### Marginal Citations

- M5** 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 [<sup>F5</sup>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 <sup>M6</sup>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

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powers under subsection [<sup>F6</sup>(1)(c) or (d)], sell or lease any [<sup>F7</sup>land, 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 [<sup>F8</sup>, 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 [<sup>F9</sup>, 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 <sup>M7</sup>Local 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

- F5** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(a\)](#)
- F6** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(i\)](#)
- F7** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(ii\)](#)
- F8** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(iii\)](#)
- F9** 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)

- C3** S. 12 excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), s. 26(5)(c)
- C4** 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

- M6** 1959 c. 70.
- M7** 1973 c. 65.



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<sup>F10</sup>12A .....

**Textual Amendments**

**F10** 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.**

[<sup>F11</sup>(1)] If any house, building, [<sup>F12</sup>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.

[<sup>F13</sup>(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 authority 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 accommodation 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**

**F11** S. 13 renumbered as s. 13(1) as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **132(3)**

**F12** Words substituted as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 78**

**F13** 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 <sup>M8</sup>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) [<sup>F14</sup>or, in pursuance of [<sup>F15</sup>Part 11 of the Housing (Scotland) Act 2010 (asp 17)] (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

**F14** Words added by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 56(11)

**F15** Words in s. 14(2)(a) substituted (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(3\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

#### Marginal Citations

**M8** 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 exchanged 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 infestment 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 [<sup>F16</sup>disposition].

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**Textual Amendments**

**F16** Word in s. 16 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 48\(2\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

*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 <sup>F17</sup> . . . 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**

**F17** 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](#).

*[<sup>F18</sup> Standards and performance in housing management]*

**Textual Amendments**

**F18** Crossheading for ss. 17A-17C inserted (1.4.1994) by [1993 c. 28, s. 153](#); S.I. 1993/2163, art. 2, [Sch. 2](#).

<sup>F19</sup>**17A Publication of information.**

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**Textual Amendments**

**F19** S. 17A repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(2\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

<sup>F20</sup>**17B Power of Secretary of State to direct local authority.**

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**Textual Amendments**

**F20** S. 17B repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(2\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

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## <sup>F21</sup>[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

**F21** 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.

## <sup>F22</sup>19 Admission to housing list

- (1) An applicant for housing held by a <sup>F23</sup>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 <sup>F24</sup>social landlord] or jointly by or on behalf of any two or more <sup>F25</sup>social landlords] in connection with the allocation of housing held by it or them for housing purposes.
- <sup>F26</sup>(3) In this Part, “social landlord” means any local authority or any registered social landlord.]]

### Textual Amendments

**F22** 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)

**F23** Words in s. 19(1) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(2)(a); S.S.I. 2014/264, art. 2, sch.

**F24** Words in s. 19(2) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(2)(b)(i); S.S.I. 2014/264, art. 2, sch.

**F25** Words in s. 19(2) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(2)(b)(ii); S.S.I. 2014/264, art. 2, sch.

**F26** S. 19(3) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(2)(c); S.S.I. 2014/264, art. 2, sch.

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

<sup>F27</sup>(1) A social landlord must, in relation to all houses held by it for housing purposes, secure that in the selection of its tenants a reasonable preference is given to the persons mentioned in subsection (1ZA).

(1ZA) The persons are—

(a) persons who—

- (i) subject to subsection (1A), are homeless persons and persons threatened with homelessness (within the meaning of Part 2), and

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- (ii) have unmet housing needs,
- (b) persons who—
  - (i) are living under unsatisfactory housing conditions, and
  - (ii) have unmet housing needs, and
- (c) tenants of houses which—
  - (i) are held by a social landlord, and
  - (ii) the social landlord selecting its tenants considers to be under-occupied.

(1ZB) For the purposes of subsection (1ZA), persons have unmet housing needs where the social landlord considers the persons to have housing needs which are not capable of being met by housing options which are available.]

[<sup>F28</sup>(1A) Homeless persons and persons threatened with homelessness (within the meaning of Part 2) are to be disregarded for the purposes of subsection (1) if they would not be such persons without the local authority having had regard to a restricted person (also within the meaning of Part 2).]

(2) In the allocation of [<sup>F29</sup>[<sup>F30</sup>such] housing][<sup>F29</sup>housing falling within subsection (1)] a [<sup>F31</sup>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
  - [<sup>F32</sup>(iii) [<sup>F33</sup>except to the extent permitted by section 20B.] 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
  - [<sup>F34</sup>(viii) where any of the circumstances in subsection (2C) apply to that person, the ownership of, or value of, heritable property owned by—
    - (A) the applicant,
    - (B) a person who normally resides with the applicant, or
    - (C) a person who it is proposed will reside with the applicant.]]

[<sup>F35</sup>(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

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- (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 [<sup>F36</sup>abuse] (within the meaning of section 33(3)) and wishes to move into the area; and]
- (b) shall not impose a requirement—
  - (i) [<sup>F37</sup>except to the extent permitted by section 20B,] that an application must have remained in force for a minimum period; or
  - (ii) that a divorce or judicial separation be obtained; or
  - [<sup>F38</sup>(ia) that a dissolution of a civil partnership or a decree of separation of civil partners 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.
- [<sup>F39</sup>(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.]
- [<sup>F40</sup>(2C) The circumstances are that—
  - (a) in the case of a property which has not been let, the owner cannot secure entry to that property,
  - (b) it is probable that occupation of the property will lead to abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14)) from some other person residing in that property,
  - (c) it is probable that occupation of it will lead to abuse (within the meaning of that Act) from some other person who previously resided with that person, whether in that property or elsewhere,
  - (d) occupation of the property may endanger the health of the occupants and there are no reasonable steps which can be taken by the applicant to prevent that danger.]

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[<sup>F41</sup>(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.]

[<sup>F42</sup>(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

- F27** S. 20(1)-(1ZB) substituted for s. 20(1) (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 3, 104\(3\)](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F28** S. 20(1A) inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), [Sch. 15 para. 10\(3\)](#); [S.I. 2009/415, art. 3](#)
- F29** Words in s. 20(2) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\)](#), [Sch. 15 para. 10\(4\)](#); [S.I. 2009/415, art. 3](#)
- F30** 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)
- F31** Words in s. 20(2) substituted (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\)](#), [sch. 2 para. 4\(3\)\(a\)](#); [S.S.I. 2014/264, art. 2, sch.](#)
- F32** 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)
- F33** Words in s. 20(2)(a)(iii) inserted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 6\(1\)\(a\), 104\(3\)](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F34** S. 20(2)(a)(viii) substituted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 5\(1\), 104\(3\)](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F35** 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)
- F36** 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](#)
- F37** Words in s. 20(2)(b)(i) inserted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 6\(1\)\(b\), 104\(3\)](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F38** S. 20(2)(b)(iia) inserted (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\), s. 104\(3\)](#), [sch. 2 para. 4\(3\)\(b\)](#); [S.S.I. 2014/264, art. 2, sch.](#)
- F39** 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)
- F40** S. 20(2C) inserted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 5\(2\), 104\(3\)](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F41** S. 20(3) added (27.9.1993) by [1993 c. 28, s. 154](#); [S.I. 1993/2163, art. 2 Sch. 1.](#)
- F42** 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)

#### [<sup>F43</sup>20A Rules on priority of allocation of housing: consultation

(1) Before making or altering its rules governing the priority of allocation of houses, a social landlord must—

- (a) consult the persons mentioned in subsection (2), and
- (b) prepare and publish a report on the consultation.

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- (2) The persons are—
- (a) applicants on its housing list (within the meaning of section 19),
  - (b) tenants of the landlord,
  - (c) bodies for the time being registered in the register of tenant organisations maintained by the landlord under section 53(3) of the Housing (Scotland) Act 2001 (asp 10), and
  - (d) such other persons as the landlord thinks fit.
- (3) A social landlord may publish a consultation report mentioned in subsection (1)(b) in such manner as it thinks fit (and may in particular publish a joint report with any other social landlord).]

#### Textual Amendments

**F43** S. 20A inserted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), ss. 4(1), 104(3); S.S.I. 2018/153, art. 2, sch. (with art. 9)

#### [<sup>F44</sup>20B Determination of minimum period for application to remain in force

- (1) A social landlord may impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing falling within section 20(1) if, before making that application, any of the circumstances mentioned—
  - (a) in subsection (6) applied in relation to the applicant, or
  - (b) in paragraphs (a) to (g) of subsection (6) applied in relation to a person who it is proposed will reside with the applicant.
- (2) But a social landlord may not impose a requirement under subsection (1) if the landlord—
  - (a) in relation to the same application has previously relied on the same circumstance as it applied to an applicant or a person who it is proposed will reside with the applicant to impose a requirement under subsection (1), or
  - (b) is a local authority and has a duty to the applicant under section 31(2) (duty to secure accommodation where applicant is homeless).
- (3) In considering whether to impose a requirement under subsection (1), a social landlord must have regard to any guidance about this section (including the matters mentioned in subsection (5)) published by the Scottish Ministers.
- (4) Before publishing any guidance mentioned in subsection (3), the Scottish Ministers must consult such persons as they consider appropriate.
- (5) The Scottish Ministers may by regulations prescribe—
  - (a) the maximum period preceding the application which a social landlord may consider in relation to any circumstances mentioned in subsection (6),
  - (b) the maximum period for an application to have remained in force which a social landlord may impose in relation to any circumstances mentioned in subsection (6), and such regulations may make different provision for different cases.
- (6) The circumstances are—



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- (a) the person has—
  - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person,
  - (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person, or
  - (iii) acted in an antisocial manner, or pursued a course of conduct which is antisocial conduct, in relation to an employee of the social landlord in the course of making the application,
- (b) the person has been, or has resided with a person who has been, convicted of—
  - (i) using a house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an offence punishable by imprisonment which was committed in, or in the locality of, a house occupied by the person,
- (c) an order for recovery of possession has been made against the person in proceedings under—
  - (i) the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118),
  - (ii) the Housing Act 1985 (c.68),
  - (iii) this Act,
  - (iv) the Housing (Scotland) Act 1988 (c.43),
  - (v) the Housing (Scotland) Act 2001 (asp 10),
- <sup>F45</sup> [ an eviction order within the meaning of the Private Housing (Tenancies) (Scotland) Act 2016 has been issued against the person, ]
- (d) the person's tenancy has been terminated by the landlord under section 18(2) of the Housing (Scotland) Act 2001 (repossession where abandoned tenancy),
- (e) the person's interest in a tenancy has been terminated by the landlord under section 20(3) of the Housing (Scotland) Act 2001 (abandonment by joint tenant),
- (f) in relation to a house where the person was a tenant, a court has ordered recovery of possession on the ground set out in paragraph 3 or 4 of schedule 2 to the Housing (Scotland) Act 2001,
- (g) there is or was any outstanding liability (for payment of rent or otherwise) in relation to a house which—
  - (i) is attributable to the person's tenancy of the house, and
  - (ii) either—
    - (A) section 20(2A) would not be satisfied in respect of that debt, or
    - (B) in the case of a debt which is no longer outstanding, section 20(2A) would not have been satisfied at any time while that debt remained outstanding,
- (h) the person knowingly or recklessly made a false statement in any application for housing held by a social landlord,
- (i) the person has refused one or more offers of housing falling within section 20(1) and the landlord considers the refusal of that number of offers to be unreasonable.

(7) In subsection (6)—

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“antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,

“conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and

“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).

- (8) The Scottish Ministers may by regulations modify subsections (6) and (7).
- (9) After the social landlord imposes a requirement under subsection (1) (whether or not previously varied under this subsection), it may—
- (a) withdraw the requirement, or
  - (b) vary the requirement in order to shorten the period imposed for the application to have remained in force.
- (10) An applicant may by summary application appeal to the sheriff against any decision of a social landlord under subsection (1).
- (11) Regulations under subsection (5) and under subsection (8) are subject to the affirmative procedure.]

#### Textual Amendments

- F44** S. 20B inserted (20.11.2014 for specified purposes, 1.5.2019 in so far as not already in force) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 6\(2\), 104\(3\)](#); [S.S.I. 2014/264, art. 2, sch.](#); [S.S.I. 2018/153, art. 2, sch.](#) (with art. 9)
- F45** S. 20B(6)(ca) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\), s. 79\(2\), sch. 4 para. 4\(2\)](#); [S.S.I. 2017/346, reg. 2, sch.](#)

## 21 [F46 Rules relating to the housing list and to transfer of tenants]

[F47(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—

<sup>F48</sup>(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;

<sup>F48</sup>(b) .....]

(2) It shall be the duty of every registered [F49]social 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).

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- (3) The bodies referred to in subsection (2)(b)(i) are—
- <sup>F50</sup>(i) .....
  - <sup>F51</sup>(ia) .....
  - (ii) every local authority within whose area there is a house let, or to be let, by <sup>F52</sup>a registered social landlord under a Scottish] secure tenancy.
- <sup>F53</sup>(3A) In making or altering its rules governing the priority of allocation of houses, a social landlord must have regard to—
- (a) any local housing strategy (within the meaning of section 89(1)(b) of the Housing (Scotland) Act 2001) for its area, and
  - (b) any guidance published by the Scottish Ministers.
- (3B) Before publishing any guidance mentioned in subsection (3A), the Scottish Ministers must consult such persons as they consider appropriate.
- (3C) The Scottish Ministers may by regulations prescribe persons of a description or type who a social landlord must include in its rules governing the priority of allocation of houses.
- (3D) Regulations under subsection (3C) are subject to the affirmative procedure.]
- (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.

#### Textual Amendments

- F46** S. 21 title substituted (1.5.2019) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 4(3)**, 104(3); [S.S.I. 2018/153](#), **art. 2**, **sch.** (with **art. 9**)
- F47** S. 21(1) substituted (27.9.1993) by [1993 c. 28](#), **s. 155(1)**; [S.I. 1993/2163](#), **art. 2**, **Sch. 1**.
- F48** 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**)
- F49** 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**)
- F50** 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**)
- F51** S. 21(3)(ia) repealed (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **s. 104(3)**, **sch. 2 para. 4(4)**; [S.S.I. 2014/264](#), **art. 2**, **sch.**
- F52** 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**)

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**F53** S. 21(3A)-(3D) inserted (20.11.2014 for specified purposes, 1.5.2019 in so far as not already in force) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 4(2)**, 104(3); S.S.I. 2014/264, art. 2, sch.; S.S.I. 2018/153, art. 2, sch. (with art. 9)

### *Housing co-operatives*

**F54** **22** .....

#### **Textual Amendments**

**F54** 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.**

**F55** **22A** .....

#### **Textual Amendments**

**F55** 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*

**[F56** **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**

**F56** S. 23 substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 1, 3, **Sch. 2 para. 8**

## **PART II**

### **HOMELESS PERSONS**

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

**C5** 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.

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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**.

**C6** 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 [<sup>F57</sup>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.

[<sup>F58</sup>(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 [<sup>F59</sup>abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14)),] or [<sup>F58</sup>(bb) it is probable that occupation of it will lead to [<sup>F60</sup>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 [<sup>F61</sup>; or
  - (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 [<sup>F62</sup>2 months].

[<sup>F63</sup>(5) For the purposes of subsection (3)(e), “permanent accommodation” includes accommodation—

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- (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.
- <sup>F64</sup> [ secured by a private residential tenancy. ]  
(e)

#### Textual Amendments

- F57** 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)
- F58** S. 24(2A)(2B), 24(3)(bb) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 65(2)
- F59** 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
- F60** 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
- F61** 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)
- F62** 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)
- F63** 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)
- F64** S. 24(5)(e) inserted (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), sch. 4 para. 4(3); S.S.I. 2017/346, reg. 2, sch.

#### <sup>F65</sup> 25 Priority need for accommodation.

.....

#### Textual Amendments

- F65** S. 25 omitted (31.12.2012) by virtue of The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 (S.S.I. 2012/330), arts. 2, 4

#### 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.

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- (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—
    - <sup>F66</sup>(i) .....
    - (ii) was detained under the authority of any Act of Parliament, [<sup>F67</sup>or
    - (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)—
- <sup>F68</sup>(a) .....
  - (b) in such <sup>F69</sup>... 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.

### Textual Amendments

- F66** S. 27(2)(a)(i) repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 156(a)**, 166(2); S.S.I. 2011/96, art. 2, sch.
- F67** 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
- F68** S. 27(3)(a) repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 156(b)**, 166(2); S.S.I. 2011/96, art. 2, sch.
- F69** Word in s. 27(3)(b) repealed (1.3.2011) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 156(c)**, 166(2); S.S.I. 2011/96, art. 2, sch.



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### *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
  - [<sup>F70</sup>(b) may, if they think fit, make any further inquiries necessary to satisfy themselves as to] 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.

#### **Textual Amendments**

**F70** Words in s. 28(2) substituted (7.11.2019) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 4\(1\), 14\(1\); S.S.I. 2019/316, art. 2](#)

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

**C7** 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 <sup>F71</sup>....**

- (1) If the local authority have reason to believe that an applicant may be homeless <sup>F72</sup>. . . , they shall secure that accommodation is made available for his occupation
  - [<sup>F73</sup>(a)] pending any decision which they may make as a result of their inquiries under section 28.
  - [<sup>F74</sup>(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.]
  - [<sup>F75</sup>(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.
- [<sup>F76</sup>(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,
  - (b) make different provision for different purposes and different areas.



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- (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

- F71** Words in s. 29 heading omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, 6
- F72** 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)
- F73** 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)
- F74** 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)
- F75** 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
- F76** 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)

- C8** 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.

<sup>F77</sup>(2) . . . . .

- (3) If they notify him that their decision is that he [<sup>F78</sup>is homeless or threatened with homelessness], they shall at the same time notify him—

- (a) [<sup>F79</sup>where they have made inquiries under section 28(2)(b),] 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.

- [<sup>F80</sup>(3A) If they decide that he is homeless [<sup>F81</sup>or threatened with homelessness,] but would not have done so without having had regard to a restricted person, they shall also notify him of—

- (a) the fact that their decision was reached on that basis,
- (b) the name of the restricted person,
- (c) the reason why the person is a restricted person, and
- (d) the effect of section 31(2G) or (as the case may be) 32(2A) and (2B).]

- (4) If they notify him—

- (a) that they are not satisfied—
- (i) that he is homeless or threatened with homelessness, <sup>F82</sup> . . .

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<sup>F82</sup>(ii) .....

- (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.

[<sup>F83</sup>(4A) They shall also notify him—

- (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.

[<sup>F84</sup>(6) In this Part “a restricted person” means a person—

- (a) who is not eligible for assistance under this Part,
- (b) who is subject to immigration control within the meaning of the Asylum and Immigration Act 1996, and
- (c) either—
  - (i) who does not have leave to enter or remain in the United Kingdom, or
  - (ii) whose leave to enter or remain in the United Kingdom is subject to a condition to maintain and accommodate himself, and any dependants, without recourse to public funds.]

#### Textual Amendments

- F77** S. 30(2) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, [7\(a\)](#)
- F78** Words in s. 30(3) substituted (31.12.2012) by [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, [7\(b\)](#)
- F79** Words in s. 30(3)(a) inserted (7.11.2019) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\)](#), [ss. 4\(2\)](#), [14\(1\)](#); [S.S.I. 2019/316](#), art. 2
- F80** S. 30(3A) inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. [325\(1\)](#), [Sch. 15 para. 11\(2\)](#); [S.I. 2009/415](#), art. 3
- F81** Words in s. 30(3A) substituted (31.12.2012) by [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, [7\(c\)](#)
- F82** S. 30(4)(a)(ii) and word omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, [7\(d\)](#)
- F83** 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)
- F84** S. 30(6) inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. [325\(1\)](#), [Sch. 15 para. 11\(3\)](#); [S.I. 2009/415](#), art. 3

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

- C9** 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.

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### 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<sup>F85</sup> ... 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 [<sup>F86</sup>permanent] accommodation becomes available for his occupation.
- [<sup>F87</sup>(2A) In a restricted case the local authority shall cease to be subject to the duty under subsection (2) if the applicant, having been informed of the matters mentioned in subsection (2B)—
  - (a) accepts a private accommodation offer, or
  - (b) refuses such an offer.
- (2B) The matters are—
  - (a) the possible consequence of refusal of the offer, and
  - (b) that the applicant has the right to request a review of the decisions mentioned in section 35A(2)(e).
- (2C) In this section “a restricted case” means a case falling within subsection (2) where the local authority would not be satisfied as mentioned in subsections (1) and (2) without having had regard to a restricted person.
- (2D) For the purposes of this Part an offer is a private accommodation offer if—
  - (a) it is an offer of a short assured tenancy made by a landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation,
  - (b) it is made, with the approval of the local authority, in pursuance of arrangements made by them with the landlord with a view to bringing their duty under subsection (2) to an end, and
  - (c) the tenancy being offered is for a period of at least 12 months.
- (2E) The local authority shall not approve a private accommodation offer unless they are satisfied that it is reasonable for the applicant to accept the offer.
- (2F) For the purposes of subsection (2E) an applicant may reasonably be expected to accept an offer even though he is under contractual or other obligations in respect of his existing accommodation, provided he is able to bring those obligations to an end before he is required to take up the offer.
- (2G) In a restricted case the local authority shall, so far as reasonably practicable, bring their duty under subsection (2) to an end as mentioned in subsection (2A).
- (2H) Subsections (2A) to (2G) are without prejudice to any other way in which the local authority can cease to be subject to the duty under subsection (2).]
- (3) [<sup>F88</sup>[<sup>F89</sup>In any other case], they][<sup>F88</sup>In a case not falling within subsection (2), the local authority] shall—
  - (a) secure that accommodation is made available for [<sup>F90</sup>his][<sup>F90</sup>the applicant's] 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 [<sup>F91</sup>assistance of such type as may be prescribed], in any attempts he may make to secure that accommodation becomes available for his occupation.

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<sup>F92</sup>(4) .....

[<sup>F93</sup>(5) For the purposes of subsection (2), “permanent accommodation” includes accommodation—

(a) secured by a Scottish secure tenancy,

<sup>F94</sup>(b) .....

(c) where paragraph 1[<sup>F95</sup>, 2 or 2A] of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the applicant, secured by a short Scottish secure tenancy.

[<sup>F96</sup>(d) secured by a private residential tenancy.]

### Textual Amendments

- F85** Words in s. 31(2) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, **8**
- F86** 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)
- F87** S. 31(2A)-(2H) inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 15 para. 12(2)**; S.I. 2009/415, art. 3
- F88** Words in s. 31(3) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 15 para. 12(3)(a)**; S.I. 2009/415, art. 3
- F89** 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)
- F90** Words in s. 31(3)(a) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 15 para. 12(3)(b)**; S.I. 2009/415, art. 3
- F91** 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)
- F92** 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)
- F93** 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)
- F94** S. 31(5)(b) repealed (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), **sch. 4 para. 4(4)(a)**; S.S.I. 2017/346, reg. 2, sch.
- F95** Words in s. 31(5)(c) substituted (1.5.2019) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 7(5)**, 104(3); S.S.I. 2018/153, art. 2, sch. (with arts. 3, 9)
- F96** S. 31(5)(d) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), **sch. 4 para. 4(4)(b)**; S.S.I. 2017/346, reg. 2, sch.

## 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 <sup>F97</sup>... 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.

[<sup>F98</sup>(2A) Subsection (2B) applies in a restricted threatened homelessness case where, in pursuance of the duty under subsection (2), the local authority secure that

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- accommodation other than that occupied by the applicant when he made his application is available for occupation by him.
- (2B) The provisions of section 31(2A) to (2H) (circumstances in which duty in restricted case ceases) apply, with any necessary modifications, in relation to the duty under subsection (2) as they apply in relation to the duty under section 31(2) in a restricted case (within the meaning of that section).]
- (3) [F99][F100]In any other case] they shall furnish him][F99]In a case not falling within subsection (2) the local authority shall furnish the applicant] with advice and [F101]assistance of such type as may be prescribed], in any attempts he may make to secure that accommodation 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
- [F102](a) that is overcrowded within the meaning of section 135 or which may endanger the health of the occupants.
  - [F103](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.]
- [F104](5A) In this section “a restricted threatened homelessness case” means a case falling within subsection (2) where the local authority would not be satisfied as mentioned in subsections (1) and (2) without having had regard to a restricted person.]
- [F105](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 [F106]with whom dependent children reside or might reasonably be expected to reside], the local authority shall have regard to the best interests of the dependent children [F107]... [F108]and 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

- F97** Words in s. 32(2) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, **9(a)**
- F98** S. 32(2A)(2B) inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008](#) (c. 17), s. 325(1), **Sch. 15 para. 13(2)**; S.I. 2009/415, art. 3
- F99** Words in s. 32(3) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008](#) (c. 17), s. 325(1), **Sch. 15 para. 13(3)**; S.I. 2009/415, art. 3
- F100** 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)

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- F101** 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)
- F102** 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)
- F103** 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)
- F104** S. 32(5A) inserted (2.3.2009 for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 13(4); S.I. 2009/415, art. 3
- F105** 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)
- F106** Words in s. 32(8) substituted (31.12.2012) by The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 (S.S.I. 2012/330), arts. 2, 9(b)(i)
- F107** Words in s. 32(8) omitted (31.12.2012) by virtue of The Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 (S.S.I. 2012/330), arts. 2, 9(b)(ii)
- F108** 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

### [<sup>F109</sup>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

- F109** 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)

### [<sup>F110</sup>32B Housing support: persons found to be homeless or threatened with homelessness

- (1) Subsection (2) applies where a local authority—
- (a) are subject to the duty under section 31(2) or 32(2) in relation to an applicant; and
  - (b) have reason to believe that the applicant may be in need of prescribed housing support services.
- (2) The local authority must assess whether the applicant, and any other person residing with the applicant, needs prescribed housing support services.
- (3) In carrying out such an assessment the local authority must—
- (a) conduct inquiries of such type as may be prescribed; and

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- (b) have regard to any prescribed matters.
- (4) Following such an assessment, the local authority must ensure that prescribed housing support services are provided to any person assessed as being in need of them.
- (5) The Scottish Ministers may by regulations made by statutory instrument make further provision about the provision of prescribed housing support services in pursuance of subsection (4) and may, in particular, specify—
  - (a) the period for which services are to be provided;
  - (b) matters to which a local authority are to have regard when ensuring provision of services.
- (6) Regulations made under this section may make different provision for different purposes and different areas.
- (7) Before making any regulations under this section, the Scottish Ministers must consult—
  - (a) such bodies representing local authorities;
  - (b) such bodies representing the interests of homeless persons; and
  - (c) such other persons,as they think fit.
- (8) Regulations under this section may be made only if a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.
- (9) In this section, “housing support services” includes any service which provides support, assistance, advice or counselling to an individual with particular needs with a view to enabling that individual to occupy, or to continue to occupy, residential accommodation as the individual's sole or main residence.]

#### Textual Amendments

**F110** S. 32B inserted (7.10.2011 for specified purposes, 1.6.2013 in so far as not already in force) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), **ss. 158, 166(2)**; [S.S.I. 2011/339](#), **art. 2**; [S.S.I. 2012/283](#), **art. 3**

### 33 Referral of application to another local authority.

- (1) If a local authority—
  - (a) are satisfied that an applicant is homeless <sup>F111</sup>... 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



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- (c) that neither that applicant nor any person who might reasonably be expected to reside with him will run the risk of domestic [F112abuse] in that other local authority's district.
- (3) For the purposes of this section a person runs the risk of domestic [F113abuse] —
- (a) if he runs the risk of [F114abuse (within the meaning of the Protection from Abuse (Scotland) Act 2001 (asp 14))] from a person with whom, but for the risk of [F113abuse], he might reasonably be expected to reside, or from a person with whom he formerly resided, F115 ...
- F115(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

- F111** Words in s. 33(1)(a) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, **10**
- F112** 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
- F113** 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
- F114** 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
- F115** 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

#### [F116]33A Power to modify section 33

- (1) The Scottish Ministers may by order made by statutory instrument provide that, for so long as the order is in force, the power of a local authority under subsection (1) of section 33 to notify another local authority of the matters referred to in that subsection—
- (a) shall not be exercisable by such local authorities or such descriptions of local authority as are specified in the order, or shall be exercisable by such local authorities or descriptions of local authority as are specified in the order only in such circumstances, or with such modifications, as are specified in the order;
- (b) shall not be exercisable in relation to such local authorities or such descriptions of local authority as are specified in the order, or shall be



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exercisable in relation to such local authorities or descriptions of local authority as are specified in the order only in such circumstances, or with such modifications, as are specified in the order.

- (2) An order under this section may—
  - (a) provide for this Part to apply with such modifications, and
  - (b) make such transitional, transitory or saving provision,as the Scottish Ministers think necessary or expedient in consequence of the order.
- (3) A statutory instrument containing an order under this section is, if made without a draft having been laid before, and approved by a resolution of, the Scottish Parliament, subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### Textual Amendments

**F116** Ss. 33A, 33B inserted (7.11.2019) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 8, 14\(1\); S.S.I. 2019/316, art. 2](#)

### **33B Statement on exercise of power to modify section 33**

- (1) The Scottish Ministers must, before the expiry of the period of 12 months beginning with the coming into force of this section, prepare and publish a statement setting out the circumstances in which, and the general criteria by reference to which, the power under section 33A is to be exercised.
- (2) The Scottish Ministers—
  - (a) must keep the statement under review;
  - (b) may from time to time modify the statement; and
  - (c) must publish any modified statement.
- (3) Before preparing or modifying the statement, the Scottish Ministers must consult—
  - (a) such associations representing local authorities; and
  - (b) such other persons,as they think fit.]

#### Textual Amendments

**F116** Ss. 33A, 33B inserted (7.11.2019) by [Homelessness etc. \(Scotland\) Act 2003 \(asp 10\), ss. 8, 14\(1\); S.S.I. 2019/316, 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) [F117 If it is determined that the conditions for referral—
  - (a) are satisfied, the notified authority are subject to the duty under section 31(2);
  - (b) are not satisfied, the notifying authority are subject to that duty.]

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- (3) When the matter has been determined, the notifying authority shall notify the applicant—
- (a) <sup>F119</sup> whether they or the notified authority are subject to the duty under section 31(2),] and
  - (b) of the reasons why the authority subject to that duty are subject to it.
- <sup>F120</sup>(3A) The notifying authority shall also notify him—
- (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 <sup>F121</sup>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.
- <sup>F122</sup>(5) For the purposes of subsection (1), “accommodation” has the meaning given in section 32(5).
- (6) <sup>F123</sup>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

- F117** S. 34(2) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 14\(2\)](#); S.I. 2009/415, art. 3
- F118** 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](#))
- F119** S. 34(3)(a) substituted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 14\(3\)](#); S.I. 2009/415, art. 3
- F120** 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](#))
- F121** 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](#))
- F122** 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](#))
- F123** S. 34(6) repealed (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 15 para. 14\(4\)](#), [Sch. 16](#); S.I. 2009/415, art. 3

### 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.

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- (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.

### [<sup>F124</sup>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.
- (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.
- [<sup>F125</sup>(e) in a case where a private accommodation offer is made to the applicant, any decision—
  - (i) that the accommodation offered is not accommodation falling within section 32(5)(a) to (c), or
  - (ii) that the authority have discharged their duty to the applicant under section 32(8).]
- (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

**F124** 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)

**F125** S. 35A(2)(e) inserted (2.3.2009 for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 15; S.I. 2009/415, art. 3

### [<sup>F126</sup>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.

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- (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

**F126** 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)

### 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

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- (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.

#### *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),

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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—
  - (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.

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### *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
  - <sup>F127</sup>(b) .....
  - (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.

#### **Textual Amendments**

**F127** S. 40(1)(b) omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, 11

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

**C10** 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 [<sup>F128</sup>section 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.

*Status: Point in time view as at 07/11/2019.*

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- (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 <sup>F129</sup>section 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 <sup>M9</sup>Local 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 <sup>M10</sup>New Towns Act 1981 or the Commission for the New Towns.

#### Textual Amendments

**F128** 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**

**F129** 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

**M9** 1970 c. 42.

**M10** 1981 c. 64.

### 43 Minor definitions.

In this Part—

“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;

<sup>F130</sup>

[<sup>F131</sup>“private accommodation offer” has the meaning assigned to it by section 31(2D);]

[<sup>F132</sup>“private residential tenancy” has the meaning given by the Private Housing (Tenancies) (Scotland) Act 2016;]

“relevant authority” means a local authority or social work authority;

[<sup>F133</sup>“restricted person” has the meaning assigned to it by section 30(6);]

“securing accommodation for a person’s occupation” has the meaning assigned to it by section 41;

[<sup>F134</sup>“short assured tenancy” has the same meaning as in Part 2 of the Housing (Scotland) Act 1988;]



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“social work authority” means a local authority for the purposes of the <sup>M11</sup>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.

**Textual Amendments**

- F130** Words in s. 43 omitted (31.12.2012) by virtue of [The Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \(S.S.I. 2012/330\)](#), arts. 2, **12**
- F131** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008](#) (c. 17), s. 325(1), **Sch. 15 para. 16(a)**; S.I. 2009/415, art. 3
- F132** Words in s. 43 inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), **sch. 4 para. 4(5)**; S.S.I. 2017/346, reg. 2, sch.
- F133** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008](#) (c. 17), s. 325(1), **Sch. 15 para. 16(b)**; S.I. 2009/415, art. 3
- F134** Words in s. 43 inserted (2.3.2009 for specified purposes) by [Housing and Regeneration Act 2008](#) (c. 17), s. 325(1), **Sch. 15 para. 16(c)**; S.I. 2009/415, art. 3

**Marginal Citations**

- M11** 1968 c. 49.

**PART III**

**RIGHTS OF PUBLIC SECTOR TENANTS**

*Security of tenure*

<sup>F135</sup>**44** .....

**Textual Amendments**

- F135** 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)

<sup>F136</sup>**45** .....

**Textual Amendments**

- F136** 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)

<sup>F137</sup>**46** .....

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**Textual Amendments**

**F137** 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)

**F138** **47** .....

**Textual Amendments**

**F138** 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)

**F139** **48** .....

**Textual Amendments**

**F139** 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)

**F140** **49** .....

**Textual Amendments**

**F140** 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)

**F141** **50** .....

**Textual Amendments**

**F141** 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)

**F142** **51** .....

**Textual Amendments**

**F142** 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

F143 **52** .....

#### Textual Amendments

**F143** 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

F144 **53** .....

#### Textual Amendments

**F144** 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)

F145 **54** .....

#### Textual Amendments

**F145** 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

F146 **55** .....

#### Textual Amendments

**F146** 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)

F147 **56** .....

#### Textual Amendments

**F147** 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*

F148 **57** .....

**Textual Amendments**  
F148 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)

F149 **58** .....

**Textual Amendments**  
F149 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)

F150 **58A** .....

**Textual Amendments**  
F150 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)

F151 **59** .....

**Textual Amendments**  
F151 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)

F152 **60** .....

**Textual Amendments**  
F152 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)

*Right to buy*

F153 **61** **Secure tenant’s right to purchase**  
.....

*Status: Point in time view as at 07/11/2019.*

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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61ZA Limitation on right to purchase: new tenants**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61A Limitation on right to purchase from registered social landlords**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61B Limitation on right to purchase: pressured areas**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61C Pressured area proposals: procedure**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61D Limitation on right to purchase: arrears of rent, council tax etc.**

.....

*Status: Point in time view as at 07/11/2019.*

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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61E Limitation on right to purchase: conduct**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 61F Limitation on right to purchase: new supply social housing**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 62 The price.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 62A** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Procedure*

**F153 63 Application to purchase and offer to sell.**

.....

*Status: Point in time view as at 07/11/2019.*

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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 63A Information to be prescribed**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 64**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 65 Variation of conditions.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 66 Notice of acceptance.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 66A Abatement of purchase price on landlord's failure before contract of sale.**

.....



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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 66B Abatement of purchase price on landlord’s failure after contract of sale.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 66C Provisions relating to sections 66A and 66B.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 67** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 68 Refusal of applications.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Houses provided for special purposes*

**F153 69 Secretary of State’s power to authorise refusal to sell certain houses provided for persons of pensionable age.**

.....

*Status: Point in time view as at 07/11/2019.*

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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**<sup>F153</sup>69A Power to refuse to sell houses required for police purposes**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**<sup>F153</sup>70 Power to refuse to sell certain houses required for educational purposes.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Houses liable to demolition*

**<sup>F153</sup>70A Authorisation of refusal to sell houses liable to demolition**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Lands Tribunal*

**<sup>F153</sup>71 Reference to Lands Tribunal.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

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*Recoverability of discount*

**F15372 Recovery of discount on early re-sale.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15373 Cases where discount etc. is not recoverable .**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Rent to loan scheme*

**F15373A** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15373B** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15373C** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Status: Point in time view as at 07/11/2019.*

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**F153 73D** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 74 Duties of landlords.**  
.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 75 Agreements affecting right to purchase.**  
.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 75A** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F153 76** .....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by Housing (Scotland) Act 2014 (asp 14), ss. 1(1), 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

*Powers of Secretary of State*

**F153 77 Secretary of State may make provision for vesting in landlord to bring into being tenant's right to purchase house.**  
.....

*Status: Point in time view as at 07/11/2019.*

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**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15378 Secretary of State may give directions to modify conditions of sale.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15379 Secretary of State may give financial and other assistance for tenants involved in proceedings.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15380 Secretary of State may make contributions towards the cost of transfers and exchanges.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

**F15381 Information from landlords in relation to Secretary of State’s powers.**

.....

**Textual Amendments**

**F153** Ss. 61-81 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

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*[<sup>F154</sup> Preservation of right to buy on disposal to private sector landlord]*

**Textual Amendments**

**F154** 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](#)

<sup>F155</sup>**81A** .....

**Textual Amendments**

**F155** 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](#))

*[<sup>F156</sup> Consultation before disposal to private sector landlord]*

**Textual Amendments**

**F156** 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](#)

<sup>F157</sup>**81B** .....

**Textual Amendments**

**F157** 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** [<sup>F158</sup>**Interpretation of sections 14, 19 and 20**]

In <sup>F159</sup>... sections 14, 19, [<sup>F160</sup>and 20], except where provision is made to the contrary,

<sup>F161</sup> ...

“family” and any reference to membership thereof shall be construed in accordance with section 83;

<sup>F162</sup> ...

<sup>F161</sup> ...

<sup>F161</sup> ...

“landlord” means a person who lets a house to a tenant for human habitation, and includes his successors in title;

<sup>F161</sup> ...

<sup>F161</sup> ...

<sup>F163</sup> ...

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F163 . . .

F161 ...

“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

- F158** S. 82 heading substituted (1.8.2016) by virtue of [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 2 para. 4(8)**; S.S.I. 2014/264, art. 2, sch. (with art. 4)
- F159** Words in s. 82 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 2 para. 4(7)(a)**; S.S.I. 2014/264, art. 2, sch. (with art. 4)
- F160** 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)
- F161** Words in s. 82 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 2 para. 4(7)(b)**; S.S.I. 2014/264, art. 2, sch. (with art. 4)
- F162** Words in s. 82 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F163** 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)

- C11** S. 82 modified (13.3.1992) by [S.I. 1992/325](#), regs. 3, 5, 7, **Sch. 1**

## 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 [<sup>F164</sup>or civil partner] of that person or he and that person live together as husband and wife [<sup>F165</sup>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 [<sup>F166</sup>or by virtue of civil partnership] shall be treated as a relationship by blood;
  - (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
  - [<sup>F167</sup>(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.



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[<sup>F168</sup>(3) Except in subsection (1)(a), references in this Act to a person's spouse include references to [<sup>F169</sup>that person's civil partner or 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

- F164** Words in s. 83(1)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(a)**; S.S.I. 2005/604, arts. 2(c), 4
- F165** 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)**)
- F166** Words in s. 83(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(b)**; S.S.I. 2005/604, arts. 2(c), 4
- F167** 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)**)
- F168** 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)**)
- F169** Words in s. 83(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 54(c)**; S.S.I. 2005/604, arts. 2(c), 4

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

- C12** S. 83 applied by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), **ss. 37(4)**, 52
- C13** S. 83 modified (13.3.1992) by [S.I. 1992/325](#), regs. 3, 5, 7, **Sch. 1**

#### <sup>F170</sup>84 Service of notices.

#### Textual Amendments

- F170** S. 84 repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

#### <sup>F171</sup>84A Application of right to buy to cases where landlord is lessee.

#### Textual Amendments

- F171** S. 84A repealed (1.8.2016) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 1(1)**, 104(3); S.S.I. 2014/264, art. 2, sch. (with art. 4)

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**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.

<sup>F172</sup>(3) .....

**Textual Amendments**  
**F172** S. 85(3) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3

**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;
  - <sup>F173</sup>(ca) has satisfactory thermal insulation;]
  - (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 [<sup>F174</sup>or waterless closet] available for the exclusive use of the occupants of the house and suitably located within the house;
  - <sup>F175</sup>(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;
  - <sup>F176</sup>(ga) in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installation for the purposes of that supply;

“the electrical installation” is the electrical wiring and associated components and fittings, but excludes equipment and appliances;

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“the relevant requirements” are that the electrical installation is adequate and safe to use;]

- (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.

[<sup>F177</sup>(1A) In construing any such reference, regard shall be had to any guidance issued by the Scottish Ministers.

(1B) The Scottish Ministers must issue the guidance in such manner as they consider appropriate for bringing it to the notice of local authorities and other persons with an interest.

(1C) The Scottish Ministers may vary or revoke any such guidance.]

(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.

[<sup>F178</sup>(2A) An order under subsection (2) is to be made by statutory instrument, and no such order is to be made unless a draft of the order has been laid before and approved by resolution of the Scottish Parliament.]

(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

**F173** S. 86(1)(ca) inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 11(2)(a)**, 195(3) (with s. 193); [S.S.I. 2009/122](#), art. 3

**F174** Words in s. 86(1)(f) inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 11(2)(b)**, 195(3) (with s. 193); [S.S.I. 2009/122](#), art. 3

**F175** 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)

**F176** S. 86(1)(ga) inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 11(2)(c)**, 195(3) (with s. 193); [S.S.I. 2009/122](#), art. 3

**F177** S. 86(1A)-(1C) inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 11(3)**, 195(3) (with s. 193); [S.S.I. 2009/122](#), art. 3

**F178** S. 86(2A) inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), **ss. 11(4)**, 195(3) (with s. 193); [S.S.I. 2009/122](#), art. 3

#### 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.

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### *Improvement order*

#### **F179 88 Improvement of houses below tolerable standard outside housing action areas.**

.....

##### **Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

### *Housing action areas*

#### **F179 89 Declaration of housing action areas for demolition.**

.....

##### **Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

#### **F179 90 Declaration of housing action areas for improvement.**

.....

##### **Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

#### **F179 91 Declaration of housing action areas for demolition and improvement.**

.....

##### **Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

#### **F179 92 Provisions supplementary to sections 89 to 91.**

.....

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**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 4)

**<sup>F179</sup>93** **Consent to demolition of listed buildings, rehabilitation orders and compensation.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 4)

*Powers of Secretary of State*

**<sup>F179</sup>94** **Functions of Secretary of State, and duty of local authority to publish information.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 4)

*Powers of local authority*

**<sup>F179</sup>95** **Further procedure, powers of local authority on acquisition of land, compensation and agricultural holdings.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 4)

**<sup>F179</sup>96** **Power of local authority to retain houses subject to demolition for temporary occupation.**

.....

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**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), [art. 3](#) (with [art. 4](#))

**<sup>F179</sup>97 Local authority may control occupation of houses in housing action area.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), [art. 3](#) (with [art. 4](#))

**<sup>F179</sup>98 Obligation of local authorities in relation to rehousing in housing action areas.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), [art. 3](#) (with [art. 4](#))

*Landlords and tenants in housing action areas*

**<sup>F179</sup>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).**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), [art. 3](#) (with [art. 4](#))

**<sup>F179</sup>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).**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), [art. 3](#) (with [art. 4](#))

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**F179 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).**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

**F179 102 Procedure; and application of s.103(1) of Rent (Scotland) Act 1984.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

**F179 103 Certain provisions of Rent (Scotland) Act 1984 not to apply.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

**F179 104 Effect of refusal to make order on validity of resolution.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

*Miscellaneous*

**F179 105 Exclusion of houses controlled by Crown.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)



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**<sup>F179</sup>106 Power of local authority to arrange for the execution of works of improvement by agreement with the owner.**

.....

**Textual Amendments**

**F179** Ss. 88-106 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 4)

**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 [<sup>F180</sup>(within the meaning given by section 73(6) of the [Housing \(Scotland\) Act 2006 \(asp 1\)](#))] 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.

**Textual Amendments**

**F180** Words in s. 107 inserted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 6 para. 10** (with s. 193); S.S.I. 2009/122, art. 3

**PART V**

**REPAIR OF HOUSES**

*Repair notices*

**<sup>F181</sup>108 Power of local authority to secure repair of house in state of serious disrepair.**

.....

**Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2007/270, art. 3; S.S.I. 2009/122, art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by S.S.I. 2010/114, art. 2)

**<sup>F181</sup>109 Recovery by local authority of expenses under s.108.**

.....

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**Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2007/270, art. 3; S.S.I. 2009/122, art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by S.S.I. 2010/114, art. 2)

**<sup>F181</sup>110 Recovery by lessee of proportion of expenses incurred in repairing house.**

.....

**Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2007/270, art. 3; S.S.I. 2009/122, art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by S.S.I. 2010/114, art. 2)

*Appeals etc.*

**<sup>F181</sup>111 Appeals under Part V.**

.....

**Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2007/270, art. 3; S.S.I. 2009/122, art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by S.S.I. 2010/114, art. 2)

**<sup>F181</sup>112 Date of operation of notices, demands and orders subject to appeal.**

.....

**Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2007/270, art. 3; S.S.I. 2009/122, art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by S.S.I. 2010/114, art. 2)

*Landlord and tenant*

**<sup>F181</sup>113 Obligations to repair.**

.....

*Status: Point in time view as at 07/11/2019.*

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#### **Textual Amendments**

**F181** Ss. 108-113 repealed (3.9.2007 for the repeal of s. 113, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2007/270](#), art. 3; [S.S.I. 2009/122](#), art. 3 (with arts. 4A-4E) (as amended (17.3.2010) by [S.S.I. 2010/114](#), art. 2)

## **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—
  - (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 <sup>F182</sup>have effect as if they had been made by the authority under that subsection.

#### **Textual Amendments**

**F182** Word inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 3](#)

*Status: Point in time view as at 07/11/2019.*

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## **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 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.

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- (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 <sup>F183</sup>sections 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 <sup>F183</sup>section 1(4)] of that Act,
- 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 <sup>F184</sup>the said sections 3 to 5], or
  - (b) a listed building within the meaning of <sup>F184</sup>the 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.

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- (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**

**F183** 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)**

**F184** 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 <sup>M12</sup>Acquisition 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 <sup>M13</sup>Lands 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.

<sup>F185</sup>(6) .....

**Textual Amendments**

**F185** S. 120(6) repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3

**Marginal Citations**

**M12** 1947 c. 42.

**M13** 1963 c. 51.

*Status: Point in time view as at 07/11/2019.*

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## **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 <sup>M14</sup>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 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**

**M14** 1963 c. 51.

*Status: Point in time view as at 07/11/2019.*

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## *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;
  - (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.



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**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 <sup>M15</sup>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.

<sup>F186</sup>(4) .....

**Textual Amendments**

**F186** S. 124(4) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

**Marginal Citations**

**M15** 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 <sup>F187</sup>... 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 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

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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.

#### Textual Amendments

**F187** Words in s. 125(2) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 48(4), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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

**C14** 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)**

**C15** 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 <sup>M16</sup>Land Compensation (Scotland) Act 1963, as modified by Schedule 1, as if it were compensation for compulsory purchase.
- (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

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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**

**M16** 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 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—

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- (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 [F188] **Recovery of possession of house subject to statutorily regulated tenancy**

[F189](1) Nothing in [F190] an enactment mentioned in subsection (2)] 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.

[F191](2) The enactments referred to in subsection (1) are—

- (a) the Rent (Scotland) Act 1984;
- (b) Part II of the Housing (Scotland) Act 1988;
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.]

### Textual Amendments

**F188** S. 128 heading substituted (1.12.2017) by virtue of [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(d\)](#); S.S.I. 2017/346, reg. 2, sch.

**F189** S. 128(1): s. 128 renumbered as s. 128(1) (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(b\)](#); S.S.I. 2017/346, reg. 2, sch.

**F190** Words in s. 128 substituted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(a\)](#); S.S.I. 2017/346, reg. 2, sch.

**F191** S. 128(2) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(c\)](#); S.S.I. 2017/346, reg. 2, sch.

*Appeals and date of operation of certain notices, etc.*

## 129 Appeals.

(1) Subject to the provisions of this section and subsections (2) [F192] 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**

**F192** 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)**

**C16** 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.**

<sup>F193</sup>(1) .....

- (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.

#### **Textual Amendments**

**F193** S. 132(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), sch. 12 para. 48(5), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

#### **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 <sup>M17</sup>Telecommunications Act 1984 (code for cases where works involve the alteration of apparatus), as applied by paragraph 2(7) of Schedule 7 to the <sup>M18</sup>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**

**M17** 1984 c.12.  
**M18** 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

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<i>Number of rooms</i>	<i>Number of persons</i>
1	2

*Status: Point in time view as at 07/11/2019.*

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2	3
3	5
4	7½
5 or more	2 for each room

TABLE II

<b>Floor area of room</b>	<b>Number of persons</b>
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.



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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 [<sup>F194</sup>age 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**

**F194** 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.**

- [<sup>F195</sup>(1)] —If the occupier of a house is guilty of an offence by reason of it being overcrowded—
- (a) nothing in [<sup>F196</sup>an enactment mentioned in subsection (2)] 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.
- [<sup>F197</sup>(2) The enactments referred to in subsection (1) are—
- (a) the Rent (Scotland) Act 1984;
  - (b) Part II of the Housing (Scotland) Act 1988;
  - (c) the Private Housing (Tenancies) (Scotland) Act 2016.]

#### **Textual Amendments**

**F195** S. 145(1): s. 145 renumbered as s. 145(1) (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 4\(7\)\(b\)](#); S.S.I. 2017/346, reg. 2, sch.

**F196** Words in s. 145(1)(a) substituted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 4\(7\)\(a\)](#); S.S.I. 2017/346, reg. 2, sch.

**F197** S. 145(2) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 4\(7\)\(c\)](#); S.S.I. 2017/346, reg. 2, sch.

#### *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

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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.
- (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 . . . <sup>F198</sup>,
  - “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

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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.

- (2) The provisions of sections 138(1) to (5), [<sup>F199</sup>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**

**F198** Words repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1)(3), Sch. 8 para. 3, **Sch. 10**

**F199** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), **Sch. 7 para. 6**

<sup>F200</sup>**PART VIII**

HOUSES IN MULTIPLE OCCUPATION

.....

**Textual Amendments**

**F200** Pt. VIII repealed (31.8.2011) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2010/159, art. 3

**PART IX**

GOVERNMENT GRANTS AND SUBSIDIES

*Housing support grants to local authorities*

<sup>F201</sup>**191 Housing support grants: fixing of aggregate amount.**

.....

**Textual Amendments**

**F201** Ss. 191-193 repealed (1.4.2013) by [Local Government Finance \(Unoccupied Properties etc.\) \(Scotland\) Act 2012 \(asp 11\)](#), **ss. 4(a)(i)**, 5(2)

<sup>F201</sup>**192 Apportionment of housing support grants.**

.....

**Textual Amendments**

**F201** Ss. 191-193 repealed (1.4.2013) by [Local Government Finance \(Unoccupied Properties etc.\) \(Scotland\) Act 2012 \(asp 11\)](#), **ss. 4(a)(i)**, 5(2)

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**F201 193 Variation of orders.**

**Textual Amendments**

**F201** Ss. 191-193 repealed (1.4.2013) by [Local Government Finance \(Unoccupied Properties etc.\) \(Scotland\) Act 2012 \(asp 11\)](#), **ss. 4(a)(i), 5(2)**

*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 . . . <sup>F202</sup> development corporations in accordance with the provisions of this section.
- (2) Grants under this section shall be payable for any year to . . . <sup>F203</sup> 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 . . . <sup>F203</sup> 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 accommodation 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**

**F202** Words repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 1, 3, 72(3), Sch. 2 para. 10(a), **Sch. 10**

**F203** 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—

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- (a) income tax (other than income tax which the Association is entitled to deduct on making any payment); and
  - (b) corporation tax.
- (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 ..... F204

**Textual Amendments**

**F204** 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.

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**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.

**200** ..... F205

**Textual Amendments**

**F205** 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.



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- (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.
- (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 satisfied 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 [F206 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

**F206** 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 07/11/2019.*

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## 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)

- C17** 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)
- C18** S. 203(1) disappplied (1.4.2007) by [The Housing \(Scotland\) Act 2001 \(Alteration of Housing Finance Arrangements\) Order 2007 \(S.S.I. 2007/74\)](#), arts. 1, [3\(b\)](#)
- C19** S. 203(1) disappplied (1.4.2008) by [The Housing \(Scotland\) Act 2001 \(Alteration of Housing Finance Arrangements\) Order 2008 \(S.S.I. 2008/28\)](#), arts. 1, [2](#)

#### 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.

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- (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.
- (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 <sup>M19</sup>Local Government (Scotland) Act 1973.

**Marginal Citations**

**M19** 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 <sup>M20</sup>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**

**M20** 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.

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- (2) That account shall include—
- (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
  - [<sup>F207</sup>(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**

**F207** 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 [<sup>F208</sup>or 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**

**F208** Words inserted (*retrospectively* 9.6.1988) by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 132(6)(8)

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## **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 <sup>M21</sup>Town and Country Planning (Scotland) Act 1959 (which also relates to the adjustment of accounts on appropriation of land) shall not apply.

### **Marginal Citations**

**M21** 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.

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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 [<sup>F209</sup>local authority];
  - (b) a joint board or a joint committee;
  - (c) a development corporation;
  - (d) the Scottish Special Housing Association;
  - [<sup>F210</sup>(e) Scottish Water]
- (5) This section does not apply to a [<sup>F211</sup>Scottish] secure tenancy.

### Textual Amendments

**F209** 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**

**F210** 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)

**F211** 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).

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**PART XII**

**HOUSE LOANS AND OTHER FINANCIAL ASSISTANCE**

*House loans: general*

**F212 214 Power of local authority to make advances for the purpose of increasing housing accommodation.**

.....

**Textual Amendments**  
**F212** S. 214 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

**F213 215 Requirements as to meeting tolerable standard.**

.....

**Textual Amendments**  
**F213** S. 215 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

*House loans: special cases*

**F214 216 .....**

**Textual Amendments**  
**F214** 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)

**F215 217 Duty of local authorities to offer loans to meet expenses of improvement of houses in housing action areas.**

.....

**Textual Amendments**  
**F215** S. 217 repealed (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

**F216 218 Duty of local authority to offer loans to meet expenses of repairs.**

.....



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### Textual Amendments

**F216** S. 218 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

## *Rates of interest on home loans*

### **219 Local authority home loan interest rates.**

- (1) Subject to subsections (2) and (3)—
  - <sup>F217</sup>(a) .....
  - (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).



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#### Textual Amendments

**F217** S. 219(1)(a) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 4F) (as amended (17.3.2010) by [S.S.I. 2010/114](#), art. 2)

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

**C20** 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—
  - (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.

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- (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)**

**C21** 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—
- (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.

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

- C22** Ss. 222–227: power to amend or repeal conferred by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 171\(b\)\(2\)](#)
- C23** 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,
  - 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)**

- C24** 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 <sup>M22</sup>Housing Act 1985;

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- (b) in relation to Northern Ireland, Part IX of the <sup>M23</sup>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)**

**C25** 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**

**M22** 1985 c. 68.

**M23** 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 indemnify the institutions in respect of loss suffered in cases where assistance has been given.

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

**C26** 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
  - (b) the classification of the advance, or any such further advance, for the purposes of Part III of the <sup>M24</sup>Building Societies Act 1986.

[<sup>F218</sup>(2) Section 16(3) and (5) of the <sup>M25</sup>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**

**F218** 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)**

**C27** 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**

**M24** 1986 c. 53.

**M25** 1976 c. 34.

<sup>F219</sup>**228** .....

**Textual Amendments**

**F219** S. 228 repealed (1.3.2000) by [S.I. 2000/311](#), [arts. 1, 44\(3\)](#)

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*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.
- (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 [<sup>F220</sup>Financial Conduct Authority and the Prudential Regulation Authority] .
- <sup>F221</sup>(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**

**F220** Words in s. 229(4) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 11 para. 4](#) (with [Sch. 12](#))

**F221** 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 satisfied, 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

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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.
- (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.



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### **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 [<sup>F222</sup>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 [<sup>F222</sup>Scottish Water] for carrying out the works.

#### **Textual Amendments**

**F222** 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)

### **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 <sup>M26</sup>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.



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**Marginal Citations**

**M26** 1973 c. 26.

*Contributions to assistance for elderly, etc.*

<sup>F223</sup>**235** .....

**Textual Amendments**

**F223** S. 235 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4**

<sup>F224</sup>**PART XIII**

LOCAL AUTHORITY GRANTS FOR IMPROVEMENT, REPAIR AND CONVERSION  
 .....

**Textual Amendments**

**F224** Pt. 13 repealed (1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, **art. 3** (with **art. 6**)

<sup>F225</sup>**PART XIV**

ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING  
 .....

**Textual Amendments**

**F225** Pt. XIV repealed (30.7.2018) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 99(1)**, 104(3); S.S.I. 2018/153, **art. 2**, **sch.**

**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

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a closing order or a demolition order in respect of the building in which it is comprised; and

(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<sup>M27</sup> 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

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considers it necessary, causing the house to be inspected by one of his officers), direct the local authority to make such a payment.

#### Marginal Citations

M27 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<sup>M28</sup> Land Compensation (Scotland) Act 1963, the date when the order was made.

#### Marginal Citations

M28 1963 c. 51.

*Status: Point in time view as at 07/11/2019.*

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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 [F226 section 121], 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.

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### Textual Amendments

**F226** Words in s. 308(1) substituted (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 11](#) (with s. 193); S.S.I. 2009/122, art. 3

### **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 <sup>F227</sup>... 120 or 121, or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the <sup>M29</sup>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 agreement,

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 subparagraph 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

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- (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.
- (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.

#### Textual Amendments

**F227** Word in s. 309(1) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

#### Marginal Citations

**M29** 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 <sup>F228</sup>... 120 or 121 or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the <sup>M30</sup>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.

#### Textual Amendments

**F228** Word in s. 310 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

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### Marginal Citations

M30 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;
- [<sup>F229</sup>(b) if the house is in a housing renewal area (within the meaning of the Housing (Scotland) Act 2006 (asp 1)), the date on which the order designating it was made under section 1 of that Act of 2006 and the authority which made it;]
- (c) if the house was declared not to meet the tolerable standard by an order under paragraph 2(1) of Schedule 2 to the <sup>M31</sup>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;
- <sup>F230</sup>(e) .....

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

- (i) [<sup>F231</sup>a tenant for a year or any shorter period;
- (ii) a statutory tenant within the meaning of the Rent (Scotland) Act 1984;
- (iii) a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988;
- (iv) a tenant under a private residential tenancy as defined in the Private Housing (Tenancies) (Scotland) Act 2016;]

“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.

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#### Textual Amendments

- F229** S. 311(1)(b) substituted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 12](#) (with s. 193); S.S.I. 2009/122, art. 3 (with art. 7)
- F230** S. 311(1)(e) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3
- F231** Words in s. 311(2) substituted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016 \(asp 19\)](#), s. 79(2), [sch. 4 para. 4\(8\)](#); S.S.I. 2017/346, reg. 2, sch.

#### Marginal Citations

- M31** 1963 c. 51.

### *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.
- (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 <sup>M32</sup>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.

<sup>F232</sup>(4) .....



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- (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.

#### Textual Amendments

**F232** S. 313(4) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

#### Marginal Citations

**M32** 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;
  - (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

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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;
  - (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 byelaws 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 <sup>M33</sup>Local Government (Scotland) Act 1973 (which relates to the procedure and other matters connected with the making of

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byelaws) the Secretary of State shall be the person by whom byelaws made under this Act are to be confirmed.

**Marginal Citations**

**M33** 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;
  - (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.

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### 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 <sup>F233</sup> ... 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.
- (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.

#### Textual Amendments

**F233** Words in s. 319(1)(a) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 7](#) (with s. 193); [S.S.I. 2009/122, art. 3](#)

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

**C28** 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

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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.
- (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

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- (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.
- (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,

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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)**

**C29** 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.

*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

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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 assignment 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 assignment and of the name and address of the new landlord.
- (2) In subsection (1), “the appropriate period” means the period beginning on the date of the assignment 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 assignment 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 <sup>M34</sup>Rent (Scotland) Act 1984 [<sup>F234</sup>and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988] and “tenant” shall be construed accordingly.
- (7) In this section, “assignment” means a conveyance or other transfer (other than in security), and any reference to the date of the assignment means the date on which the conveyance or other transfer was granted, delivered or otherwise made effective.



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#### Textual Amendments

**F234** Words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(2), [Sch. 9 para. 19](#)

#### Marginal Citations

**M34** [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.
- (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)

**C30** S. 329 applied (27.8.1993) by [1993 c. 11, ss. 62\(2\)\(a\)\(ii\), 68\(2\)](#).

*Status: Point in time view as at 07/11/2019.*

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### **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)**

**C31** 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.

### **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*

### **<sup>F235</sup>334 Power of heir of entail to sell land for housing purposes.**

#### **Textual Amendments**

**F235** S. 334 repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 48(13), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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**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.

**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)**  
**C32** 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** ..... F236

**Textual Amendments**  
**F236** 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 <sup>M35</sup>Housing (Scotland) Act 1966;
  - “Act of 1968” means the <sup>M36</sup>Housing (Financial Provisions) (Scotland) Act 1968;

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“Act of 1969” means the <sup>M37</sup>Housing (Scotland) Act 1969;

“Act of 1972” means the <sup>M38</sup>Housing (Financial Provisions) (Scotland) Act 1972;

“Act of 1974” means the <sup>M39</sup>Housing (Scotland) Act 1974;

“Act of 1978” means the <sup>M40</sup>Housing (Financial Provisions) (Scotland) Act 1978;

“Act of 1980” means the <sup>M41</sup>Tenants’ Rights, Etc. (Scotland) Act 1980;

“Act of 1985” means the <sup>M42</sup>Housing Act 1985;

“Act of 1986” means the <sup>M43</sup>Housing (Scotland) Act 1986;

[<sup>F237</sup>“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—

- [<sup>F238</sup>(a) a person who has permission under [<sup>F239</sup>Part 4A] 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 <sup>M44</sup>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 <sup>M45</sup>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 <sup>M46</sup>New Towns (Scotland) Act 1968;

<sup>F240</sup> ...

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[<sup>F241</sup>“disabled person” has the same meaning as in the [<sup>F242</sup>Equality Act 2010,]]

“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;

“financial year”, in relation to a local authority, has the same meaning as in section 96(5) of the <sup>M47</sup>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 <sup>M48</sup>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 <sup>M49</sup>Housing (Temporary Accommodation) Act 1944;

<sup>F240</sup> ...

“housing association” has the same meaning as it has in the <sup>M50</sup>Housing Associations Act 1985;

<sup>F243</sup> ...

<sup>F240</sup> ...

<sup>F240</sup> ...

[<sup>F244</sup>“insurance company” means—

- (a) a person who has permission under [<sup>F245</sup>Part 4A] 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 [<sup>F246</sup>right] 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;

[<sup>F247</sup>“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;]

[<sup>F248</sup>“local authority landlord” has the same meaning as in the Housing (Scotland) Act 2001 (asp 10);]

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“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;

<sup>M51</sup>“order for possession” has the meaning assigned to it by section 115(1) of the Rent (Scotland) Act 1984;

<sup>M52</sup>“overspill agreement” has the same meaning as in section 9(1) of the Housing and Town Development (Scotland) Act 1957;

“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;

<sup>F249</sup>“public undertakers” means any corporation, company, body or person carrying on a railway, canal, inland navigation, dock, harbour, tramway, gas, . . . , water or other public undertaking [<sup>F250</sup>(including a universal service provider (within the meaning of [<sup>F251</sup>Part 3 of the Postal Services Act 2011] ) in connection with the provision of a universal postal service (within the meaning of [<sup>F252</sup>that Part] ))];

<sup>M53</sup>“registered housing association” means a housing association registered under the Housing Associations Act 1985;

[<sup>F253</sup>“registered social landlord” has the same meaning as in the [<sup>F254</sup>Housing (Scotland) Act 2010 (asp 17)] ;]

<sup>M54M55</sup>“regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force as defined by section 223 of the Air Force Act 1955, Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

<sup>F240</sup>  
...

“road” has the same meaning as it has in the Roads (Scotland) Act 1984;

[<sup>F255</sup>“Scottish secure tenancy” and “short Scottish secure tenancy” have the same meanings as in the Housing (Scotland) Act 2001 (asp 10);]

<sup>F256</sup>  
...

<sup>F257</sup>  
...

“a service charge” means any charge referred to in section 211;

<sup>F258</sup>  
...

<sup>F240</sup>  
...

“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;

<sup>F257</sup>  
...

“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 [<sup>F259</sup>and a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988] and “tenant”

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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;

F260

“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 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.

[<sup>F261</sup>(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

- F237** 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)**
- F238** Words in s. 338(1) substituted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1, 226(2)(a)**
- F239** Words in s. 338(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 57(a)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F240** Words in s. 338(1) repealed (1.4.2009 for the repeal of the definition of "standard amenities", 1.4.2010 in so far as not already in force) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); [S.S.I. 2009/122](#), art. 3
- F241** Words in s. 338(1) substituted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 6 para. 14** (with s. 193); [S.S.I. 2009/122](#), art. 3
- F242** Words in s. 338(1) substituted by 2010 c. 15 Sch. 26 Pt. 1 para. 8 (as inserted) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), **Sch. 1 para. 2** (see [S.I. 2010/2317](#), art. 2)



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- F243** Words in s. 338 repealed (1.4.2013) by Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 (asp 11), **ss. 4(a)(ii)**, 5(2)
- F244** Words in s. 338(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(2)(b)
- F245** Words in s. 338(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 57(b)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F246** Word in s. 338(1) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), **ss. 71, 77(2), sch. 12 para. 48(14)(a)** (with **ss. 58, 62, 75**); S.S.I. 2003/456, art. 2
- F247** 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**
- F248** Words in s. 338(1) inserted (1.3.2011) by Housing (Scotland) Act 2010 (asp 17), **ss. 144(2)**, 166(2); S.S.I. 2011/96, art. 2, sch. (with art. 6)
- F249** 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**
- F250** Words in s. 338(1) added (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 73**
- F251** Words in s. 338(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 127(a)**; S.I. 2011/2329, art. 3
- F252** Words in s. 338(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 127(b)**; S.I. 2011/2329, art. 3
- F253** 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)
- F254** Words in s. 338(1) substituted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **sch. 2 para. 3(5)**; S.S.I. 2012/39, art. 2, sch. 1 (with sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)
- F255** 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)
- F256** Words in s. 338(1) repealed (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(9)(b)**; S.S.I. 2014/264, art. 2, sch.
- F257** Words in s. 338(1) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), **ss. 71, 77(2), sch. 12 para. 48(14)(b), sch. 13 Pt. 1** (with **ss. 58, 62, 75**); S.S.I. 2003/456, art. 2
- F258** 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)
- F259** Words in s. 338(1) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 20**
- F260** 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)
- F261** S. 338(1A) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 226(3)

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

- C33** S. 338 extended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 Pt. I para. 15**
- C34** S. 338(1) amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 26**

#### Marginal Citations

- M35** 1966 c. 49.
- M36** 1968 c. 31.
- M37** 1969 c. 34.
- M38** 1972 c. 46.
- M39** 1974 c. 45.
- M40** 1978 c. 14.
- M41** 1980 c. 52.
- M42** 1985 c. 68.
- M43** 1986 c. 65.
- M44** 1963 c. 16.
- M45** 1986 c. 53.
- M46** 1968 c. 16.
- M47** 1973 c. 65.



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**M48** 1974 c. 46.  
**M49** 1944 c. 36.  
**M50** 1985 c. 69.  
**M51** 1984 c. 58.  
**M52** 1957 c. 38.  
**M53** 1985 c. 69.  
**M54** 1955 c. 18.  
**M55** 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:**

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**Changes to legislation:**

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