



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART IV

SUB-STANDARD HOUSES

The tolerable standard

85 General duty of local authority in respect of houses not meeting tolerable standard

- (1) It shall be the duty of every local authority to secure that all houses in their district which do not meet the tolerable standard are closed, demolished or brought up to the tolerable standard within such period as is reasonable in all the circumstances.
- (2) In determining what period is reasonable for the purposes of subsection (1), regard shall be had to alternative housing accommodation likely to be available for any persons who may be displaced from houses as a result of any action proposed by the local authority in pursuance of that subsection.
- (3) Every local authority shall from time to time cause to be made such a survey or inspection of their district as may be necessary for the performance of the duty imposed on them by subsection (1) or for the purpose of ascertaining the availability of alternative housing accommodation.

86 Definition of house meeting tolerable standard

- (1) Subject to subsection (2), a house meets the tolerable standard for the purposes of this Act if the house—
 - (a) is structurally stable;
 - (b) is substantially free from rising or penetrating damp;
 - (c) has satisfactory provision for natural and artificial lighting, for ventilation and for heating;
 - (d) has an adequate piped supply of wholesome water available within the house;

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- (e) has a sink provided with a satisfactory supply of both hot and cold water within the house;
- (f) has a water closet available for the exclusive use of the occupants of the house and suitably located within the house;
- (g) has an effective system for the drainage and disposal of foul and surface water;
- (h) has satisfactory facilities for the cooking of food within the house;
- (i) has satisfactory access to all external doors and outbuildings;

and any reference to a house not meeting the tolerable standard or being brought up to the tolerable standard shall be construed accordingly.

- (2) The Secretary of State may by order vary or extend or amplify the criteria set out in the foregoing subsection either generally or, after consultation with a particular local authority, in relation to the district, or any part of the district, of that authority.
- (3) This section shall be without prejudice to section 114 (certain underground rooms to be treated as houses not meeting the tolerable standard).

87 Official representation that house does not meet tolerable standard

- (1) The proper officer of the local authority may make an official representation to the authority whenever he is of opinion that any house in their district does not meet the tolerable standard.
- (2) A local authority shall as soon as may be take into consideration any official representation which has been made to them.
- (3) Every representation made in pursuance of this section by the proper officer of the local authority shall be in writing.

Improvement order

88 Improvement of houses below tolerable standard outside housing action areas

- (1) Subject to subsections (2) and (3), where a local authority are satisfied that a house which is not situated in a housing action area does not meet the tolerable standard, they may by order require the owner of the house within a period of 180 days of the making of the order to improve the house by executing works—
 - (a) to bring it up to the tolerable standard; and
 - (b) to put it into a good state of repair;
 and where the local authority are satisfied that the house has a future life of not less than 10 years, they may in addition require the execution of such further works of improvement as to ensure that the house will be provided with all of the standard amenities within that period.
- (2) In subsection (1), reference to a house which does not meet the tolerable standard includes a reference to a house which does not have a fixed bath or shower and reference to executing works to bring it up to the tolerable standard includes reference to installing a fixed bath or shower.
- (3) If the works of improvement required by an order under subsection (1) have not been completed within the said period of 180 days, the local authority may if—
 - (a) they consider that satisfactory progress has been made on the works, or

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- (b) they are given an undertaking in writing that the works will be completed by a date which they consider satisfactory,
amend the order to require the works to be completed within such further period as they may determine.
- (4) If the works of improvement have not been completed within the period of 180 days or, as the case may be, the further period determined under subsection (3), the local authority, in order that they themselves may carry out the works required by the order under subsection (1), may acquire the house by agreement or may be authorised by the Secretary of State to acquire the house compulsorily; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (5) Paragraphs (a) to (c) of section 118(1) (persons upon whom closing and demolition orders are to be served) shall apply to orders under this section as they apply to orders under that section.
- (6) Section 129 (appeals) shall apply to enable an aggrieved person to appeal against an order under this section as it applies to enable an aggrieved person to appeal against a closing order.
- (7) A local authority shall make an improvement grant in accordance with Part XIII towards meeting the cost of the works which are required in pursuance of this section.
- (8) The owner of the house in respect of which improvement works are required under this section may apply to the local authority for a loan to meet the cost of the works in so far as they are not met by a grant made under subsection (7); and subsections (2) to (9) of section 217 shall apply for the purposes of this subsection as they apply for the purposes of subsection (1) of that section.

Housing action areas

89 Declaration of housing action areas for demolition

- (1) Where a local authority are satisfied—
- (a) that the houses, or the greater part of the houses, in any area in their district do not meet the tolerable standard, and
 - (b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),
- they may cause the area to be denned on a map and pass a draft resolution declaring the area so defined to be a housing action area for demolition, that is to say, an area which is to be dealt with in accordance with the provisions of subsection (2).
- (2) A resolution passed under this section shall provide that a housing action area for demolition shall be dealt with by securing the demolition of all the buildings in the area but—
- (a) such an area shall not include the site of a building unless at least part of the building consists of a house which does not meet the tolerable standard;
 - (b) there may be excluded from demolition any part of a building which is used for commercial purposes.

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- (3) For the purposes of this section and the following two sections, a house in respect of which a closing order has been made and not determined shall be deemed to be a house which does not meet the tolerable standard.

90 Declaration of housing action areas for improvement

- (1) Where a local authority are satisfied—
- (a) that the houses, or the greater part of the houses, in any area in their district lack one or more of the standard amenities or do not meet the tolerable standard, and
 - (b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),
- they may cause the area to be defined on a map and pass a draft resolution declaring the area so defined to be a housing action area for improvement, that is to say, an area which is to be dealt with in accordance with the provisions of that subsection.
- (2) A resolution passed under this section shall provide that a housing action area for improvement shall be dealt with by securing the carrying out of such works on the houses in the area which do not meet the standard specified by the local authority under subsection (3) in respect of the area that on the completion of the works all the houses in the area will meet that standard.
- (3) The standard specified by the local authority for the purpose of this section shall be that all the houses in the area—
- (a) shall meet the tolerable standard; and
 - (b) shall be in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the houses,
- and, where the local authority are satisfied that the houses in the area have a future life of not less than 10 years, they may in addition specify that all the houses in the area shall be provided with all of the standard amenities.
- (4) A housing action area for improvement shall not include the site of a building unless at least part of the building consists of a house which—
- (a) lacks one or more of the standard amenities, or
 - (b) does not meet the tolerable standard, or
 - (c) is not in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house.

91 Declaration of housing action areas for demolition and improvement

- (1) Where a local authority are satisfied—
- (a) that the houses, or the greater part of the houses, in any area in their district lack one or more of the standard amenities or do not meet the tolerable standard, and
 - (b) that the most effective way of dealing with the area is to apply to the area the provisions of subsection (2),
- they may cause the area to be defined on a map and pass a draft resolution declaring the area so defined to be a housing action area for demolition and improvement, that is to say, an area which is to be dealt with in accordance with the provisions of that subsection.

- (2) Subject to subsection (4), a resolution passed under this section shall provide that a housing action area for demolition and improvement shall be dealt with by securing the demolition of some of the buildings in the area and by securing the carrying out of such works on those houses in the area which do not meet the standard specified by the local authority by virtue of subsection (3) in respect of the area, other than the houses in those buildings, that on the completion of the works all the houses then in the area will meet that standard.
- (3) For the purposes of specifying the standard mentioned in subsection (2), the provisions of subsection (3) of section 90 shall apply as they apply for the purposes of specifying the standard mentioned in subsection (2) of that section.
- (4) A local authority—
 - (a) shall not secure the demolition of a building in a housing action area for demolition and improvement unless the greater part of the houses in the building are below the tolerable standard, and
 - (b) may exclude from demolition any part of such a building which is used for commercial purposes.
- (5) A housing action area for demolition and improvement shall not include the site of a building unless at least part of the building consists of a house which—
 - (a) lacks one or more of the standard amenities, or
 - (b) does not meet the tolerable standard, or
 - (c) is not in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house.

92 Provisions supplementary to sections 89 to 91

- (1) In considering whether to take action under sections 89 to 91 with respect to an area, a local authority shall have regard to any directions given by the Secretary of State, either generally or in respect of any particular authority or authorities, with regard to the identification of areas suitable to be declared to be housing action areas.
- (2) If, on the application of a local authority, the Secretary of State is satisfied that in all the circumstances it is reasonable to do so, he may give directions as respects the waiving of the requirement in the said section 90(1)(a) or 91(1)(a) that the greater part of the houses in any area of that local authority's district lack one or more of the standard amenities or do not meet the tolerable standard.
- (3) A draft resolution passed under the provisions of the said section 89, 90 or 91 shall specify the section under which it was made, be in such form and contain such information about such matters as the Secretary of State may prescribe, and the Secretary of State may prescribe different requirements for the different resolutions.
- (4) A draft resolution passed under the said section 90 or 91 shall, without prejudice to the generality of the foregoing provisions of this section, contain a statement as to the standard specified by the local authority under the said section 90 or by virtue of the said section 91 and a draft resolution shall identify—
 - (a) where it is passed under section 89 or 91, those buildings in the area which consist of a house or houses which, in the opinion of the local authority, should be demolished;
 - (b) where it is passed under section 90 or 91, those houses in the area which are below the standard specified as aforesaid and which, in the opinion of the

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local authority, should be brought up to that standard and do not fall within paragraph (c);

- (c) where it is passed under section 90 or 91, those houses in the area which form part of a building comprising two or more flats and which, in the opinion of the local authority—
 - (i) are below the standard specified for the area as aforesaid, and
 - (ii) require to be integrated with some other part or parts of that building; and that other part or parts of the building shall also be identified.

93 Consent to demolition of listed buildings, rehabilitation orders and compensation

Schedule 7 (consent to demolition of listed buildings in housing action areas, rehabilitation orders and compensation) shall have effect for the purpose of making provision in relation to houses acquired in housing action areas and subject to rehabilitation orders.

Powers of Secretary of State

94 Functions of Secretary of State, and duty of local authority to publish information

- (1) A local authority shall, as soon as may be after passing a draft resolution under section 89, 90 or 91, submit the draft resolution and a copy of the map to the Secretary of State.
- (2) On receiving the draft resolution and a copy of the map, the Secretary of State shall send to the local authority a written acknowledgement of the receipt of the resolution and of the map.
- (3) If it appears to the Secretary of State to be appropriate to do so he may, at any time within the period of 28 days beginning with the day on which he sent an acknowledgement under subsection (2)—
 - (a) direct the local authority to rescind the resolution; or
 - (b) notify the local authority that he does not propose to direct them to rescind the resolution; or
 - (c) notify the local authority that he requires a further period for consideration of the resolution and as soon as practicable thereafter direct the local authority as mentioned in paragraph (a) or, as the case may be, notify them as mentioned in paragraph (b).
- (4) As soon as may be after the date on which a local authority are notified as mentioned in subsection (3)(a), the local authority shall rescind the draft resolution.
- (5) Where the local authority are notified as mentioned in subsection (3)(b) or, if after the expiry of the period of 28 days mentioned in subsection (3), the local authority have received no notification from the Secretary of State, the local authority shall as soon as may be—
 - (a) publish in two or more newspapers circulating in the locality (of which one shall, if practicable, be a local newspaper) a notice that a draft resolution has been made and naming a place or places and times at which a copy of the resolution and a copy of the map may be inspected; and

- (b) serve on every owner, lessee and occupier of any premises to which the draft resolution relates a notice stating the effect of the resolution.
- (6) Any notice for the purposes of subsection (5) shall be in such form, contain such information and be served in such manner as the Secretary of State may prescribe; and the Secretary of State may prescribe different requirements for the different resolutions.
- (7) Without prejudice to the generality of the provisions of subsection (6), a notice served under subsection (5)(b) shall state that such owner, lessee and occupier may, within two months from the date of service of the notice, make representations to the local authority concerning the draft resolution or any matter contained therein.

Powers of local authority

95 Further procedure, powers of local authority on acquisition of land, compensation and agricultural holdings

- (1) Part I of Schedule 8 shall have effect in relation to the procedure to be followed after publication and service of a draft resolution.
- (2) Part II of Schedule 8 shall have effect in relation to the powers of a local authority acquiring land for the purposes of this Part.
- (3) Part III of Schedule 8 shall have effect in relation to compensation in respect of land acquired compulsorily.
- (4) Part IV of Schedule 8 shall have effect in relation to the adjustment of relations between lessors and lessees where improvements have been carried out on agricultural holdings under this Part.

96 Power of local authority to retain houses subject to demolition for temporary occupation

- (1) A local authority, who in a resolution passed under section 89 or 91 have provided that some or all of the buildings in a housing action area should be demolished, may postpone the demolition of any such building on land purchased by or belonging to the authority within that area, being a building which is, or which contains, a house which in the opinion of the authority must be continued in use as housing accommodation for the time being.
- (2) Where the demolition of a building is postponed under subsection (1), the authority shall carry out such works as may in their opinion from time to time be required for rendering or keeping such house capable of being continued in use as housing accommodation pending its demolition.
- (3) In respect of any house retained by a local authority under this section for use for housing purposes, the authority shall have the same powers and duties as they have in respect of houses provided under Part I.

97 Local authority may control occupation of houses in housing action areas

- (1) Subject to subsection (3) of this section, a local authority may—
 - (a) as soon as practicable after they receive notification under section 94(3)(b), or

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- (b) if after the expiry of the period of 28 days mentioned in section 94(3) they have received no notification from the Secretary of State;
- make an order in the prescribed form prohibiting the occupation of the houses in the area which have been identified in accordance with section 92(4)(a) and (c) except with the consent of the authority.
- (2) Within 28 days of making an order under this section, the local authority shall serve a notice in the prescribed form in respect of every such house in the housing action area—
- (a) upon the person having control of the house, and
- (b) upon any other person who is an owner or occupier of the house,
- stating that the order has been made and indicating the effect of the order.
- (3) An order made under this section shall not prohibit the occupation of a house in the area by a person occupying it on the date of the service of the notice in respect of the house under subsection (2).
- (4) If any person, knowing that an order has been made under this section, occupies or permits to be occupied a house after the date of the service of the notice in respect of the house under subsection (2) in contravention of the order, he shall be guilty of an offence and shall be liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence to a further fine of £5 for every day or part of a day which he occupies the house, or permits it to be occupied, after conviction.
- (5) Where an owner or a person having control of a house in respect of which an order under this section is served considers that it is unreasonable in all the circumstances of the case that the order should continue to apply to the house, he may apply to the local authority to revoke the order in respect of the house.
- (6) Where an applicant for a revocation under subsection (5) is aggrieved by the refusal of the local authority to revoke the order, he may appeal to the sheriff by giving notice of appeal within 21 days of the date of the refusal.
- (7) An order made under this section shall cease to have effect in relation to any house affected by any of the following events, that is to say—
- (a) on the date on which the local authority revoke an order under subsection (5);
- (b) on the date of the passing of a final resolution under paragraph 1 of Schedule 8 identifying a house in accordance with that paragraph as read with section 92(4)(b);
- (c) on the date of the rescinding of a draft resolution under paragraph 1 of Schedule 8;
- (d) in the case where the Secretary of State, in refusing to confirm an order for compulsory purchase submitted to him under paragraph 5 of Schedule 8, directs that any order made under this section shall cease to apply either generally or in respect of individual houses, on the date of that direction;
- (e) in the case where the Secretary of State, in modifying in accordance with the provisions of paragraph 5(3)(e) of Schedule 8 an order for compulsory purchase submitted to him under that paragraph, directs that any order made under this section shall cease to apply either generally or in respect of individual houses, on the date of that direction.

98 Obligation of local authorities in relation to rehousing in housing action areas

Where a person is to be displaced as a result of implementation of the provisions of this Part, and where a local authority are under a duty by virtue of section 36 of the Land Compensation (Scotland) Act 1973 to rehouse him, the authority shall, if so requested by that person and in so far as practicable, secure that he will be provided with suitable alternative accommodation within a reasonable distance from the locality of the house from which he is to be displaced.

Landlords and tenants in housing action areas

99 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(a)

(1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the building of which the house consists or forms part in accordance with that paragraph as read with section 92(4)(a);
- (b) the owner of the house is willing to secure the demolition of the building of which the house consists or forms part; and
- (c) the owner cannot obtain vacant possession of the house by agreement with the tenant thereof,

then, whether or not the tenancy of that house has been terminated, the owner may apply to the sheriff for an order for possession of that house.

- (2) Any such order shall require the tenant to vacate the house within such period, not being less than 4 weeks nor more than 6 weeks from the date of the order, as the sheriff may determine and, where any tenancy of that house has not previously been terminated, such order shall have the effect of terminating that tenancy as from the date of the order.
- (3) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of adjustment of rent or compensation for any improvements carried out by the tenant) as the sheriff may think just and equitable, having regard to the respective rights, obligations and liabilities of the parties and to all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

100 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(c)

(1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8 which identifies the house in accordance with that paragraph as read with section 92(4)(c);
- (b) the owner of the house is also the owner of the other part or parts of the building of which the house forms part which have been identified as aforesaid as requiring to be integrated with that house, in whole or in part;

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- (c) the owner of the house is willing to carry out the necessary works of integration as aforesaid; and
- (d) the owner cannot obtain vacant possession of the house or of the said other part or parts of the building by agreement with any tenant thereof,

then, whether or not the tenancy of that house or of the said other part or parts of the building has been terminated, the owner may apply to the sheriff for an order for possession of that house or of the said other part or parts of the building.

- (2) The provisions of section 99(2) and (3) shall apply to an order made under this section as they apply to an order made under that section but, without prejudice to the generality of the provisions of those subsections, the sheriff shall, before imposing any such conditions as are referred to in section 99(3), have regard as to whether the owner has offered to any tenant, who will be required to vacate the house by an order under this section, a tenancy of a house which will include in whole or in part that house.

101 Application to sheriff for possession where house is identified in accordance with paragraph 1 of Schedule 8 as read with section 92(4)(b)

- (1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the house in accordance with that paragraph as read with section 92(4)(b);
- (b) the owner of the house is willing to carry out the necessary works to bring the house up to the standard specified for the area by the local authority under section 90(3) or, as the case may be, by virtue of section 91(3);
- (c) those works cannot be carried out without the consent of the tenant of that house or without the house being vacated temporarily; and
- (d) the tenant refuses to consent to the carrying out of those works or to vacate the house,

then the owner may apply to the sheriff for an order authorising the owner to enter the house and carry out those works, and, on any such application, the sheriff may, if he considers that it is necessary for the house to be vacated to enable the works to be carried out, order the tenant to vacate the house for such period, beginning not less than 4 weeks from the date of the order, as the sheriff may determine.

- (2) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of rent payable under the tenancy during the carrying out of the works and as to the period during which the house is to be vacated) as the sheriff may think just and equitable, having regard to all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

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

Any application made to the sheriff under this Part shall be made by way of summary application and the provisions of section 103(1) of the Rent (Scotland) Act 1984 shall apply to any such application as they apply to an application made under any of the provisions referred to in subsection (2) of that section.

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

Nothing in the Rent (Scotland) Act 1984 restricting the power of a court to make an order for possession of a dwelling-house shall apply to any application made to the sheriff or to any order made by the sheriff under this Part.

104 Effect of refusal to make order on validity of resolution

Where, in relation to any application under this Part, the sheriff refuses to make the order sought, that refusal shall not affect the validity of any resolution passed by the local authority under this Part or any rights or obligations of the local authority under this Part or under any other enactment relating to housing.

Miscellaneous

105 Exclusion of houses controlled by Crown

- (1) No order under section 88 nor any notice of a final resolution under Part I of Schedule 8 may be served in respect of a house in which there is a Crown interest except with the consent of the appropriate authority and, where a notice of a final resolution is served with the consent of the appropriate authority, this Part shall apply in relation to the house as it applies in relation to a house in which there is no such interest.
- (2) If, after a notice of a final resolution as aforesaid has been served in respect of any house in which there is a Crown interest, the appropriate authority becomes the person having control of the house, any such notice shall cease to have effect.
- (3) In this section, "Crown interest" means an interest belonging to Her Majesty in right of the Crown or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, and "the appropriate authority"—
 - (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;
 - (b) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department,

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

106 Power of local authority to arrange for the execution of works of improvement by agreement with the owner

A local authority may by agreement with an owner of a house at his expense execute, or arrange for the execution of, any works of improvement or of repair to which this Part or Part V or Part XIII applies which the local authority and the owner agree are necessary or desirable.

107 Conditions may be attached to sale of below-standard local authority houses

Where a house on land acquired or appropriated by a local authority for the purposes of Part I lacks one or more of the standard amenities or does not meet the tolerable

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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.