



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XIII

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

##### *Improvement grants*

#### **236 Power of local authorities to make improvement grants**

- (1) Subject to the provisions of this Part, a local authority may give assistance by making an improvement grant in respect of—
  - (a) works required for the provision of houses by the conversion of houses or other buildings;
  - (b) works required for the improvement of houses.
- (2) Subject to subsection (4), in this Part—
  - (a) "improvement", in relation to a house, includes—
    - (i) alteration and enlargement, and
    - (ii) in relation to a house for a disabled occupant, the doing of works required for making it suitable for his accommodation, welfare or employment;
  - (b) any reference to works required for the provision or improvement of a house, whether generally or in any particular respect, includes a reference to any works of repair or replacement needed in the opinion of the local authority paying the grant for the purpose of enabling the house to which the improvement relates to attain a good state of repair, and "improved" shall be construed accordingly.
- (3) In this section—

"disabled occupant" means a disabled person for whose benefit it is proposed to carry out works in respect of which an improvement grant is sought;

"disabled person" means a person who is substantially handicapped by illness, injury or congenital deformity;

"house for a disabled occupant" means a house which—

- (a) is a disabled occupant's only or main residence when an application for an improvement grant in respect of it is made; or
  - (b) is likely in the opinion of the local authority to become a disabled occupant's only or main residence not later than the expiry of a reasonable period after the completion of the works in respect of which an improvement grant is sought.
- (4) Any reference in this Part to works required for the improvement of a house does not include a reference to works specified in a notice under section 162 (which empowers a local authority to require the provision of means of escape in the case of fire in a house in multiple occupation) or to works required in connection with works so specified.

### **237 Form of application**

An application for an improvement grant shall be in such form as may from time to time be prescribed and shall contain full particulars of—

- (a) the works which are proposed to be or are being carried out together with plans and specifications of the works;
- (b) the land on which those works are proposed to be or are being carried out; and
- (c) the expenses (including any professional fees) estimated to be incurred in executing the works, and where the application relates to the provision or improvement of more than one house, the estimate shall specify the proportion of the expenses attributable to each house proposed to be provided or improved.

### **238 Powers of local authority**

- (1) Subject to this Part, a local authority may approve, or refuse to approve, such an application.
- (2) If it approves the application, it shall make an improvement grant.

### **239 Consent of Secretary of State**

- (1) The Secretary of State may give directions to a local authority or to local authorities generally, requiring that an application for an improvement grant or all such applications of any class specified in the directions shall not be approved except with the consent of the Secretary of State and subject to any conditions which he may impose.
- (2) It shall be the duty of any local authority to comply with any such directions.

### **240 Conditions for approval of applications for improvement grant other than applications relating exclusively to the provision of standard amenities**

- (1) A local authority shall not approve an application for an improvement grant—
  - (a) unless they are satisfied that the owner of every parcel of land on which the improvement works are to be or are being carried out, (other than land proposed to be sold or leased under section 9(4)), has consented in writing

- to the application and to being bound by any conditions imposed by or under section 246;
- (b) if the improvement works specified in it have been begun, unless they are satisfied that there were good reasons for beginning the works before the application was approved.
- (2) A local authority shall not approve any such application, other than an application to which section 244 (provision of standard amenities) applies—
- (a) unless, subject to subsection (6), they are satisfied that—
- (i) the house or houses to which the application for an improvement grant relates will provide satisfactory housing accommodation for such period and conform with such requirements with respect to construction and physical condition and the provision of services and amenities as may be specified for the time being for the purposes of this section by the Secretary of State, and
- (ii) in a case where the house or houses to which the said application relates is or are comprised in a building containing more than one house, the works to be carried out on the house or houses will not prevent the improvement of any other house in that building;
- (b) if the application is in respect of the improvement or conversion of a house provided after 15th June 1964, but the Secretary of State may give directions, either generally or with respect to any particular case, as to the waiving of this provision;
- (c) if, subject to subsections (3) to (6), it is made by the owner of the house to which the application relates or by a member of his family and the house or any part thereof is to be occupied by that owner or by a member of his family after completion of the works and—
- (i) the rateable value of the occupied premises exceeds the prescribed limit; or
- (ii) if it is to be provided by the conversion of two or more houses, the aggregate of the rateable values of those houses exceeds the prescribed limit:

Provided that where sub-paragraph (i) applies, a local authority may approve such an application if it is made in relation to a part of the house which after completion of the works will be self-contained and is not to be occupied by the owner or by a member of his family.

- (3) Paragraph (c) of subsection (2) shall not apply—
- (a) where the house to which the application relates is in a housing action area for improvement declared under section 90 and is listed in the final resolution under section 92(4)(b) or (c) as requiring improvement or integration;
- (b) where the house to which the application relates is subject to an improvement order made under section 88(1);
- (c) in relation to an application for an improvement grant for the conversion of a building which does not at the date of the application consist of or include a house; or
- (d) to a house which is to be occupied by a disabled person (as defined in section 236(3)) in so far as the application is in respect of works which his disability renders necessary if the house is to be suitable for his accommodation, welfare or employment.

- (4) In paragraph (c) of subsection (2)—

"prescribed limit" means such limit of rateable value as the Secretary of State with the consent of the Treasury may prescribe; and different limits may be so prescribed for different cases and for different classes of cases; and a limit so prescribed shall be prescribed by order of the Secretary of State made by statutory instrument which shall be subject to annulment by resolution of either House of Parliament; and

"rateable value" means the rateable value entered in the valuation roll and in force on the date of the application.

- (5) The Secretary of State may by order made in a statutory instrument which shall be subject to annulment by resolution of either House of Parliament vary the provisions of paragraph (c) of subsection (2).
- (6) The local authority may, with the approval of the Secretary of State, disregard any requirement specified by him under subsection (2)(a)(i) in any case where, in the opinion of the local authority, conformity with that requirement would not be practicable at a reasonable expense.

#### **241 Approval of application for improvement grant**

- (1) Where a local authority approve an application made under the provisions of this Part for an improvement grant, they shall notify the applicant and where appropriate, the owner, of the amount of the expense (as estimated in the application) approved by them as being attributable to each house proposed to be provided or improved (an amount hereinafter referred to in relation to improvement works as the "approved expense" of executing those works), and of the amount payable, expressed as a percentage of the approved expense and as a cash amount.
- (2) In approving an application for an improvement grant a local authority may require as a condition of paying the grant that the improvement works are carried out within such period (which must not be less than a period of 12 months) as the local authority may specify or within such further period as the local authority may allow.
- (3) Where a local authority—
- (a) refuse an application, or
  - (b) approve an application but fix as the amount of an improvement grant an amount less than that which may be fixed by virtue of section 242 or 244,
- they shall notify the applicant in writing of the grounds of their decision.

#### **242 Amount of improvement grant**

- (1) Subject to the following provisions of this section, the amount of an improvement grant other than a grant paid under section 244 shall not exceed 50 per cent., or such other percentage as may be prescribed of the approved expense of executing the works, but the approved expense for an improvement grant including any amount allowed for the purposes of subsection (4) shall be subject to a maximum of £10,200 or such other maximum as may be prescribed, in respect of each house to which the application relates.
- (2) If, after an application for a grant has been approved by a local authority, the authority are satisfied that owing to circumstances beyond the control of the applicant the expense of the works will exceed the estimate contained in the application, they

may, on receiving a further estimate, substitute a higher amount as the amount of the approved expense of executing the works, but that amount shall not exceed the maximum authorised by virtue of subsection (1).

- (3) A local authority may allow for works for repair and replacement needed, in their opinion, for the purposes of enabling the house to attain a good state of repair—
- (a) where an application for an improvement grant relates wholly or partly to the provision of any or all of the standard amenities and—
    - (i) on completion of the works the house is in the opinion of the local authority likely to be available for use as a house for a period of at least 10 years, a maximum approved expense not exceeding £3,000 or such other amount as may be prescribed, or 50 per cent., or such other percentage as may be prescribed of the approved expense of executing the improvement works, whichever is the greater; or
    - (ii) on completion of the works the house is in the opinion of the local authority likely to be available for use as a house for a period of less than 10 years, a maximum approved expense not exceeding £300 (or such other amount as may be prescribed) for each standard amenity provided, but subject to a maximum of £1,200 or such other amount as may be prescribed;
  - (b) where an application does not so relate, a maximum approved expense not exceeding 50 per cent., or such other percentage as may be prescribed of the approved expense of executing the improvement works.
- (4) If the local authority are satisfied that in any particular case—
- (a) there are good reasons for fixing a higher amount than that payable by virtue of subsection (1), that amount may be exceeded by such amount as the Secretary of State may approve; and the approval of the Secretary of State may be given either with respect to a particular case or with respect to a particular class of case;
  - (b) the expense of executing the works was materially enhanced by measures taken to preserve the architectural or historic interest of the house or building to which the application relates, the amount payable by virtue of subsection (1) may be exceeded by such amount as the Secretary of State may approve.
- (5) In any case where—
- (a) an improvement grant or repairs grant within the meaning of Part I of the Act of 1974, or
  - (b) an improvement grant or repairs grant within the meaning of this Part, or
  - (c) assistance under either of the following enactments—
    - (i) section 1 of the Hill Farming Act 1946,
    - (ii) section 22(2) of the Crofters (Scotland) Act 1955;
- has been made or given in respect of a house and, within the period of 10 years beginning on the date on which the grant or assistance was paid or, if it was paid by instalments, the date on which the last instalment was paid, an improvement grant under this Part, other than a grant payable under section 244 or in respect of works for the benefit of a disabled occupant within the meaning of section 236, is made in respect of that house, the amount payable in relation to that improvement grant shall, when added to the unrepaid amount, if any, of that previous grant or assistance, not exceed 50 per cent., or such other percentage as may be prescribed in pursuance of subsection (1), of the maximum approved expense so prescribed.

- (6) Where by virtue of the making on any occasion of an improvement grant in respect of the improvement of a house, the conditions specified in section 236 are required to be observed with respect to the house before the observance thereof by virtue of the making of an improvement grant on a previous occasion has ceased to be requisite, the provisions of sections 246, 247, 252(4) and Schedule 19 shall apply in relation to the house as regards each occasion on which an improvement grant is so made as if it were the only occasion on which it was so made.
- (7) The percentage of the approved expense that may be prescribed under subsection (1) or (3) shall be prescribed by order of the Secretary of State made with the consent of the Treasury.
- (8) An order made under subsection (7) shall be made by statutory instrument and shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.
- (9) The maximum approved expense that may be prescribed under subsection (1) or (3) shall be prescribed by order of the Secretary of State made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) An order under this section may make different provision with respect to different cases or descriptions of case.

### **243 Payment of improvement grant**

- (1) An improvement grant in respect of the expenses incurred for the purpose of the execution of improvement works shall, subject to the following provisions of this section, be paid—
  - (a) within one month of the date on which, in the opinion of the local authority, the house first becomes fit for occupation after the completion of the works; or
  - (b) partly in instalments paid from time to time as the works progress and with a final settlement of the balance within one month of the completion of the works but the aggregate of the instalments paid shall not at any time before the completion of the improvement works exceed 50 per cent., or such other percentage fixed by virtue of section 242(1), or, as the case may be, section 244(6) of the aggregate approved expense of the works executed up to that time.
- (2) The payment of an improvement grant or of an instalment or the balance thereof shall be conditional on the improvement works, or, as the case may be, the part of the works which the local authority consider will entitle the applicant to payment of the instalment or of the balance of the grant, being executed to the satisfaction of the local authority.
- (3) Where an instalment of an improvement grant is paid before the completion of the works, and the works are not completed within 12 months of the date of payment of the instalment, then that instalment and any further instalment paid by the local authority on account of the grant shall, on being demanded by the authority, forthwith become payable to them by the person to whom the instalments were paid, and the instalments shall carry interest at such reasonable rate as the local authority may determine from the date on which they were paid by the authority until repaid under this subsection.

**244 Duty of local authorities to make improvement grants where an application relates exclusively to the provision of standard amenities or to disabled occupant; and amount thereof**

- (1) Subject to the provisions of this Part, a local authority shall, where an application in that behalf is made to the local authority, give assistance in respect of the improvement of any house by way of making an improvement grant in respect of the cost of executing works required for the house to be provided with one or more of the standard amenities which it presently lacks, if on completion of the works the house will, in the opinion of the local authority—
  - (a) be provided with all of the standard amenities for the exclusive use of its occupants; and
  - (b) meet the tolerable standard.
- (2) A local authority shall not make an improvement grant under this section in respect of a house comprised in a building containing more than one house, unless they are satisfied that the works carried out on the house will not prevent the improvement of any other house in the building.
- (3) Where an application in that behalf is made to a local authority in relation to any house, an improvement grant shall be made under subsection (1) in respect of the cost of executing works required for the house to be provided with a standard amenity, notwithstanding that the house already has such a standard amenity, if in the opinion of the local authority the additional standard amenity to be provided is essential to the needs of a disabled occupant.
- (4) Paragraph (a) of subsection (1) shall not apply where the house in respect of which application for a grant is made is not likely to be available for use as a house for a period of at least 10 years.
- (5) Subsection (1) shall not apply in respect of a house which is or forms part of a house or building as regards which the local authority are satisfied that they have power to serve a notice under section 161 (power to require execution of works of descriptions other than work to make good neglect).
- (6) Subject to subsection (8), the standard amenities for the purposes of this Part are the amenities which are described in the first column of Part I of Schedule 18 and which will be for the exclusive use of the occupants of the house to which the application relates.
- (7) The amount of an improvement grant made under this section shall be 50 per cent. or such other percentage as may be prescribed of the approved expense, which shall be subject to a limit determined in accordance with Part II of Schedule 18.
- (8) The Secretary of State may by order vary the provisions of Schedule 18, and any such order may contain such transitional or other supplementary provisions as appear to the Secretary of State to be expedient.
- (9) Section 86 shall have effect for determining whether a house meets the tolerable standard for the purposes of subsection (1) as it has effect for determining whether a house meets that standard for the purposes of Part IV.
- (10) The Secretary of State may by order—
  - (a) vary the requirements of subsection (1)(a) and (b);

- (b) vary the amount specified in subsection (6), so as to provide for different amounts of grant to apply for different classes of cases.
- (11) Schedule 18 shall have effect for the purpose of specifying the standard amenities and the maximum eligible amount of improvement grant in respect thereof.
- (12) The percentage of the approved expense that may be prescribed under subsection (7) or (10)(b) shall be prescribed by order of the Secretary of State made with the consent of the Treasury.
- (13) An order made under subsection (8) or (10)(a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (14) An order made under subsection (12) shall be made by statutory instrument and shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

#### **245 Grants restricted to applicant and his personal representatives**

In relation to a grant or an application for a grant, any reference in the preceding provisions of this Part to the applicant shall be construed, in relation to any time after his death, as a reference to his personal representatives.

#### **246 Conditions to be observed with respect to houses in respect of which an improvement grant has been made, and registration thereof**

- (1) Where an application for an improvement grant has been approved by a local authority, the provisions of this section shall apply with respect to the house for a period of 5 years beginning with the date on which, in the opinion of the local authority, it first becomes fit for occupation after the completion of the improvement works, and shall, so long as those provisions are required to be so observed, be deemed to be part of the terms of any lease or tenancy of the house and shall be enforced accordingly.
- (2) It shall be a condition of the grant that—
  - (a) the house shall not be used for the purposes other than those of a private dwelling-house, but a house shall not be deemed to be used for the purposes other than those of a private dwellinghouse by reason only that part thereof is used as a shop or office, or for business, trade or professional purposes;
  - (b) the house shall not be occupied by the owner or a member of his family except as his only or main residence within the meaning of Part V of the Capital Gains Tax Act 1979;
  - (c) all such steps as are practicable shall be taken to (secure the maintenance of the house in a good state of repair.
- (3) The owner of the house shall, on being required to do so by the local authority, certify that the conditions specified in subsection (2) are being observed with respect to the house, and any tenant of the house shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with the provisions of this subsection.
- (4) A local authority shall not, as a prerequisite of approving a grant, require any conditions or obligations, other than the conditions mentioned in this Part or other



statutory obligations to be observed with respect to a house in respect of which an improvement grant has been made under this Part.

- (5) The provisions of Schedule 19 shall have effect in the event of a breach of any of the conditions mentioned in this section at a time when they are required to be observed with respect to a house.
- (6) Where a local authority pay an improvement grant or, in a case where an improvement grant is payable partly in instalments as the improvement works progress and the balance after the completion of the works in respect of a house, they shall specify in the notice or record mentioned respectively in subsections (7) and (8) the matters specified in subsection (9).
- (7) If subsection (6) applies, the local authority shall, where the applicant for the grant was not a tenant-at-will or was a tenant-at-will who since applying, has acquired his landlord's interest in the tenancy, cause to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be, a notice in such form as may be prescribed.
- (8) If subsection (6) applies, the local authority shall, where that applicant was and continues to be a tenant-at-will, keep a written record.
- (9) The matters to be specified are—
  - (a) the conditions mentioned in this section which are required to be observed with respect to the house;
  - (b) the period for which the conditions are to be observed; and
  - (c) the provisions of Schedule 19 under which, on a breach of any of the said conditions at a time when they require to be observed, the owner of the house becomes liable to repay to the authority the amount repayable by virtue of that Schedule.
- (10) Any expenses incurred under subsection (7) recording the notice in the Register of Sasines or registering it in the Land Register, as the case may be, shall be repaid to the local authority by the applicant.

#### **247 Voluntary repayment of improvement grants**

- (1) The owner of a house in respect of the provision or improvement of which an improvement grant has been made or the holder of a heritable security over the house, being a heritable creditor entitled to exercise his power of sale, may, at any time when the conditions specified in section 246 are required to be observed with respect to the house, pay to the local authority the like amount as would become payable to them by virtue of Schedule 19 in the event of a breach of any of the conditions referred to in section 246(2), and on the making of the payment observance with respect to the house of those conditions shall cease to be requisite and the provisions of paragraph 7 of the said Schedule shall apply for the purposes of this subsection as they apply for the purposes of that Schedule.
- (2) A sum paid under subsection (1) by a heritable creditor shall be treated as part of the sum secured by the heritable security.