



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART XIV

ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

Eligibility for assistance

257 Designation of defective dwellings by Secretary of State

- (1) The Secretary of State may designate as a class any buildings each of which consists of or includes one or more dwellings if it appears to him that—
 - (a) buildings in the proposed class are defective by reason of their design or construction, and
 - (b) by virtue of the circumstances mentioned in paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.
- (2) A dwelling which is, or is included in a building in a class so designated is referred to in this Part as a "defective dwelling"; and in this Part in relation to such a dwelling—
 - (a) "the qualifying defect" means what, in the opinion of the Secretary of State, is wrong with the buildings in that class; and
 - (b) "the cut-off date" means the date by which, in the opinion of the Secretary of State, the circumstances mentioned in subsection (1)(a) became generally known.
- (3) A designation shall describe the qualifying defect and specify—
 - (a) the cut-off date,
 - (b) the date (being a date on or after the cut-off date) on which the designation is to come into operation,
 - (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.

Status: This is the original version (as it was originally enacted).

- (4) A designated class shall not be described by reference to the area in which the buildings concerned are situated.
- (5) Notice of a designation shall be published in the Edinburgh Gazette.
- (6) Any question arising as to whether a building is or was at any time in a class designated under this section shall be determined by the Secretary of State.

258 Variation or revocation of designation

- (1) The Secretary of State may—
 - (a) vary a designation under section 257, but not so as to vary the cut-off date, or
 - (b) revoke such a designation.
- (2) The Secretary of State may by a variation of the designation extend the period referred to in section 257(3)(c) (period within which assistance must be applied for) whether or not it has expired.
- (3) The variation or revocation of a designation does not affect the operation of the provisions of this Part in relation to a dwelling if, before the variation or revocation comes into operation, the dwelling is a defective dwelling by virtue of the designation in question and an application for assistance under this Part has been made.
- (4) Notice of the variation or revocation of a designation shall be published in the Edinburgh Gazette.

259 Conditions of eligibility

- (1) Subject to the following provisions of this Part, a person to whom this section applies is eligible for assistance in respect of a defective dwelling for the purposes of this Part if—
 - (a) his interest in the dwelling is that of owner ("the owner's interest"), and
 - (b) one of the following sets of conditions is satisfied.
- (2) This section applies to—
 - (a) an individual who is not a trustee,
 - (b) trustees, if all the beneficiaries are individuals, and
 - (c) personal representatives.
- (3) The first set of conditions is that—
 - (a) there was a disposal by a public sector authority of the owner's interest in the dwelling before the cut-off date; and
 - (b) there has been no disposal for value by any person of owner's interest in the dwelling on or after the cut-off date;and for the purposes of this subsection where a public sector authority hold an interest in a dwelling a disposal of that interest by or under any enactment is to be treated as a disposal by the authority.
- (4) The second set of conditions is that—
 - (a) a person to whom this section applies acquired the owner's interest in the dwelling on a disposal for value occurring within the period of 12 months beginning with the cut-off date;

- (b) on the date of that disposal he was unaware of the association of the dwelling with the qualifying defect;
- (c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect; and
- (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.

260 Exceptions to eligibility

A person is not eligible for assistance in respect of a defective dwelling if the local authority are of the opinion that—

- (a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
- (b) on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

261 Construction of references to disposal, etc.

- (1) References in this Part to a disposal include a part disposal; but for the purposes of this Part a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling only if on the disposal the person to whom it is made acquires a relevant interest in the dwelling.
- (2) Subject to subsection (3), where any interest in land is disposed of, the time at which the disposal is made is, for the purposes of this Part, the time the missives are concluded (and not, if different, the date of entry specified in the missives).
- (3) If the missives contain a condition precedent (and in particular if they contain a condition relating to the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition precedent is satisfied.
- (4) References in this Part to a disposal of an interest for value are to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.
- (5) In relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references in this Part to a previous disposal of an interest in the dwelling include a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired.