



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART I

#### PROVISION OF HOUSING

##### *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 85(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.

#### **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;

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- (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.

### **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.
- (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 Consumer Credit Act 1974.

## **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.
- (3) This section shall not authorise the grant of a licence under the Licensing (Scotland) Act 1976 for the sale of alcoholic liquor in connection with the provision under this section of facilities for obtaining meals.

## **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.

## **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.

**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 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 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 Land Compensation (Scotland) Act 1963, subject to the rules set out in Schedule 1.

## **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 Lands Clauses Consolidation (Scotland) Act 1845.

## **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 subsection (5), 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.

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- (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 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 powers under subsection (1)(d), sell or lease any house or any part share thereof to which the housing revenue account kept under section 203 relates except with the consent of the Secretary of State unless it is a house 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 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 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.

**13 Power of Secretary of State in certain cases to impose conditions on sale of local authority's houses, etc.**

If any house, building, land or dwelling 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.

**14 Powers of local authorities to sell certain houses without consent of Secretary of State**

- (1) Subject to section 74(2) of the 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—
  - (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); 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)).

**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 feu.

*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 and exercised by 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.

**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.

**19 Admission to housing list**

- (1) In considering whether an applicant for local authority housing is entitled to be admitted to a housing list, a local authority shall take no account of—
  - (a) the age of the applicant provided that he has attained the age of 16 years; or
  - (b) the income of the applicant and his family; or
  - (c) whether, or to what value, the applicant or any of his family owns or has owned (or any of them own or have owned) heritable or moveable property; or
  - (d) 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
  - (e) whether the applicant is living with, or in the same house as—
    - (i) his spouse; or
    - (ii) a person with whom he has been living as husband and wife.
- (2) Where an applicant—
  - (a) is employed in the area of the local authority; or
  - (b) has been offered employment in the area of the local authority; or
  - (c) wishes to move into the area of the local authority and the local authority is satisfied that his purpose in doing so is to seek employment; or
  - (d) has attained the age of 60 years and wishes to move into the area of the local authority to be near a younger relative; or
  - (e) has special social or medical reasons for requiring to be housed within the area of the local authority,admission to a housing list shall not depend on the applicant being resident in the area.
- (3) Where a local authority has rules which give priority to applicants on its housing list it shall apply those rules to an applicant to whom subsection (2) above applies no less



favourably than it applies them to a tenant of the local authority whose housing needs are similar to those of the applicant and who is seeking a transfer to another house belonging to the local authority.

- (4) In this section and in section 21 of this Act, "housing list" means a list of applicants for local authority housing which is kept by a local authority in connection with the allocation of housing.

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

- (1) A local authority shall, in relation to all houses held by them for housing purposes, secure that in the selection of their tenants a reasonable preference is given—
- (a) to persons who—
    - (i) are occupying houses which do not meet the tolerable standard; or
    - (ii) are occupying overcrowded houses; or
    - (iii) have large families; or
    - (iv) are living under unsatisfactory housing conditions; and
  - (b) to persons to whom they have a duty under sections 31 to 34 (homeless persons).
- (2) In the allocation of local authority housing a local authority—
- (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
    - (iii) any of the matters mentioned in paragraphs (a) to (c) of section 19(1); and
  - (b) shall not impose a requirement—
    - (i) that an application must have remained in force for a minimum period; or
    - (ii) that a divorce or judicial separation 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.

## **21 Publication of rules relating to the housing list and to transfer of tenants**

- (1) It shall be the duty of every local authority, the Scottish Special Housing Association and development corporations (including urban development corporations) to publish in accordance with subsection (2), and within 6 months of any alteration of the rules, any rules which it may have governing—
- (a) admission of applicants to any housing list;
  - (b) priority of allocation of houses;
  - (c) transfer of tenants from houses owned by it to houses owned by other bodies;
  - (d) exchanges of houses.
- (2) It shall be the duty of every registered housing association—
- (a) within the period of 6 months commencing on 7th January 1987 to make rules governing the matters mentioned in paragraphs (a) to (d) of subsection (1)

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- (unless it has, in accordance with subsections (4) and (5), published such rules before that date and those rules remain current);
- (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).
- (3) The bodies referred to in subsection (2)(b)(i) are—
- (i) the Housing Corporation; and
  - (ii) every local authority within whose area there is a house let, or to be let, by the association under a secure tenancy.
- (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.

### *Housing co-operatives*

## **22 Agreements for exercise by housing co-operatives of local authority housing functions**

- (1) A local authority may make an agreement with a society, company or body of trustees for the time being approved by the Secretary of State for the purposes of this section (in this section called a "housing co-operative")—
- (a) for the exercise by the co-operative, on such terms as may be provided in the agreement, of any of the local authority's powers relating to land or any interest in land held by them for the purposes of this Part, and the performance by the cooperative of any of the local authority's duties relating to such land or interest; or
  - (b) for the exercise by the co-operative, in connection with any such land or interest, of any of the local authority's powers under section 4 or 5 (powers to provide furniture, board and laundry facilities).
- (2) An agreement to which this section applies may only be made with the approval of the Secretary of State.

- (3) The Secretary of State's approval to the making of such an agreement may be given either generally or to any local authority or description of local authority or in any particular case, and may be given unconditionally or subject to any conditions.
- (4) A housing association is not entitled under the Housing Associations Act 1985 to housing association grant, revenue deficit grant or hostel deficit grant in respect of land comprised in an agreement to which this section applies.
- (5) Houses on land included in an agreement to which this section applies shall continue to be included in the local authority's housing revenue account; and neither the fact that the authority have made the agreement nor any letting of land in pursuance of it shall be treated as a ground for the reduction, suspension or discontinuance of any Exchequer contribution or subsidy under section 202.

### *Powers of Scottish Special Housing Association*

## **23 Compulsory purchase of land by Scottish Special Housing Association**

- (1) Where the Scottish Special Housing Association (hereafter in this section referred to as "the Association") desire to acquire any land for—
  - (a) the provision of new houses by the Association under the terms of an agreement between them and the Secretary of State, or
  - (b) the provision of housing accommodation by the Association under a scheme submitted by them to the Secretary of State under section 196(1)(b),and the Association have made an application to the local authority in whose district the land is situated requesting them to acquire the land under this Part for the purpose of selling it or leasing it to the Association, then if the authority have power so to acquire the land and the Association are satisfied, after consultation with the authority, that the authority are unwilling to acquire the land for that purpose or that the footing on which they are willing to do so involves the sale or leasing of the land to the Association subject to conditions which are unacceptable to the Association, the Association may themselves acquire the land compulsorily.
- (2) The Association may, at the request of the Housing Corporation made in accordance with section 88(5) of the Housing Associations Act 1985, acquire land compulsorily.
- (3) The power of the Association to acquire any land compulsorily under subsection (1) or subsection (2) shall be exercisable in any particular case on their being authorised to do so by the Secretary of State, and in relation to the compulsory purchase the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if the Association were a local authority within the meaning of that Act, as if this Act had been in force immediately before the commencement of that Act, and in relation to the exercise of the Association's powers under subsection (1) of this section as if in Part I of Schedule 1 to that Act (procedure for authorising compulsory purchases) references to an owner of any land comprised in the compulsory purchase order included references to the local authority in whose district the land is situated.
- (4) The Association may not dispose of any land acquired by them compulsorily under this section which is not required for the purposes for which it was acquired without the consent in writing of the Secretary of State.
- (5) In the case of land which is situated partly in the district of one local authority and partly in the district of another, references in this section to the local authority in

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whose district the land is situated shall be construed as references to each of those local authorities.

- (6) The Association may, for the purpose of securing the improvement of the amenities of a predominantly residential area within a district in which it has an interest as owner of land—
- (a) carry out any works on land owned by them;
  - (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 expense, or at the expense of the Association, or in part at the expense of both;
  - (c) acquire any land by agreement.
- (7) Subsection (6) applies to a development corporation in respect of its designated area as it applies to the Association in respect of a district in which it has an interest as owner of land, and in addition to the powers conferred by that subsection, a development corporation may assist (whether by grants or loans or otherwise) in the carrying out of works on land not owned by them.