



Housing (Financial Provisions) (Scotland) Act 1972

1972 CHAPTER 46

PART VII

MISCELLANEOUS AND GENERAL

Miscellaneous

69 All payments under overspill agreements to be voluntary

- (1) No payment shall be made by an exporting authority to a receiving authority under subsection (4)(b) of section 9 of the Housing and Town Development (Scotland) Act 1957 for the year 1972-73 or any subsequent year in pursuance of an overspill agreement; but such an agreement whether made before or after this Act comes into force, may provide with the consent of the Secretary of State, for such payment from the exporting authority to the receiving authority as may be specified in the agreement.
- (2) In consequence of subsection (1) above the said section 9 shall have effect for the year 1972-73 and subsequent years as if—
 - (a) subsection (4)(b) were omitted ; and
 - (b) for subsection (5) there were substituted the following subsection—

“(5) An overspill agreement (whether entered into before or after this Act comes into force) may provide, with the consent of the Secretary of State, for the making by the exporting authority to the receiving authority of such payment as may be specified in the agreement.”.
- (3) Nothing in this section shall affect the continuance of any payment being made in pursuance of subsection (5) of the said section 9 immediately before this Act comes into force.
- (4) A receiving authority may abrogate an overspill agreement entered into before this Act comes into force if the Secretary of State is satisfied, on an application made to him

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by the receiving authority, that, if they were to implement the agreement, an unduly large burden would fall on the authority's housing revenue account.

70 Termination of certain existing exchequer contributions and related provisions

Schedule 8 to this Act shall have effect as to—

- (a) the termination, for the year 1972-73 and subsequent years, of payments under the enactments described in Schedule 1 to this Act, and
- (b) the termination or modification of certain other provisions about assistance for housing authorities or other persons providing housing accommodation.

71 Financial assistance towards tenants' removal expenses

- (1) A local authority for the purposes of Part VII of the Act of 1966 shall, in the performance of the functions of management of houses conferred on them by section 149(1) of that Act, have power, subject to subsections (2) and (3) below, in every case where a tenant of a house to which the housing revenue account relates moves to another house, whether or not that other house is also owned by the local authority—
 - (a) to pay any expenses of the removal ;
 - (b) where the tenant is purchasing the house, to pay any expenses incurred by him in connection with the purchase other than the purchase price.
- (2) Paragraph (b) of subsection (1) above shall only apply in a case where a tenant of a house to which the housing revenue account relates moves to another house of the local authority if that house has never been let.
- (3) A local authority may make their payment of expenses in connection with the purchase of a house subject to such conditions as they think fit.
- (4) Nothing in this section shall affect the operation of section 160 of the Act of 1966 (which gives a local authority power in certain circumstances to pay reasonable allowances to persons displaced from buildings).

72 Default by local authority

Section 195 of the Act of 1966 (default powers of Secretary of State in relation to rents) shall have effect as if—

- (a) In subsection (1) for the words from "there has" to " this Act" there were substituted the words

“a local authority—

- (a) have failed effectively to discharge any of their functions under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 ; or
- (b) have failed so to discharge any function conferred on them by that Act or any other enactment as to secure the effective discharge of any of their functions under those Parts of that Act;”

- (b) after subsection (4) there were inserted the following subsections—

“(4A) Without prejudice to subsection (4) above, where a local authority have failed to comply with any requirement of—

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- (a) a default order within the time specified therein, being a default order in which the Secretary of State has declared the local authority to be in default in respect of a failure such as is mentioned in subsection (1) of this section, but has not directed them to comply with a rents scheme, or
- (b) a rents scheme to which they have been directed under this section (whether in a default order or in a supplementary order),

the Secretary of State may make an order rendering exercisable by him such functions of the local authority under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 as are specified in the order and such other functions of the local authority as the Secretary of State considers necessary or expedient for the performance of those functions and as are so specified, and he may direct that the authority shall not during such time as the order is in force perform any function conferred by the order on him.

(4B) Section 194 of this Act shall apply for the purposes of subsection (4A) above as it applies for the purposes of section 193 of this Act.

(4C) It shall be the duty of a local authority, any of whose functions the Secretary of State is exercising by virtue of an order under subsection (4A) above, and any officer or servant of such an authority, to take all reasonable steps to facilitate the performance of those functions by the Secretary of State.”

- (c) after subsection (5) there were inserted the following subsection—

“(5A) The Secretary of State may—

- (a) in a default order in which he has not directed a local authority to comply with a rents scheme made under this section, or
- (b) in a default order or supplementary order in which he has so directed the local authority, or
- (c) in an order under subsection (4A) above,

require the local authority or, as the case may be, empower himself to treat during such period as may be specified in the order any provision of the Housing (Financial Provisions) (Scotland) Act 1972 so specified—

- (i) as having effect with such exceptions, adaptations and modifications as may be so specified,
- (ii) as not having effect.”

73 Power of Secretary of State to reduce, suspend or discontinue housing subsidies

Section 58 of the Act of 1968 shall have effect as if—

- (a) in subsection (1) at the end there were added the words " ; and he may, in the circumstances mentioned in paragraph (aa) or (c) of subsection (3) of this section reduce the amount of any subsidy payable under Part I of the Housing (Financial Provisions) (Scotland) Act 1972 or suspend or discontinue the payment of such subsidy or part thereof. " ;
- (b) in subsection (3) after paragraph (a) there were inserted the following paragraph—

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- “(aa) that the subsidy falls to be paid to a local authority and the Secretary of State is satisfied that the authority have failed to discharge any of their functions under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 ;”;
- (c) in subsection (3)(c) after the word " made " there were inserted the words " or the subsidy falls to be paid ".

74 Application of receipts from disposal of certain land

Notwithstanding section 168 of the Local Government (Scotland) Act 1947, any money received by a local authority from the disposal of land, being land in respect of which income and expenditure is accounted for in the housing revenue account or the slum clearance revenue account, shall be applied, except where the Secretary of State otherwise approves, for a purpose for which the land which was the subject of the transaction was held.

75 Adjustment of accounts on appropriation of land

- (1) Where after the coming into force of this section land is appropriated by a local authority for the purposes of Part II or Part VII of the Act of 1966 or Part I of the Act of 1969, or on the discontinuance of use for that purpose, such adjustment shall be made in the accounts of the local authority as the Secretary of State may direct.
- (2) Any direction under this section may be either a general direction or a direction for any particular case.
- (3) Where this section applies, section 25 of the Town and Country Planning (Scotland) Act 1959 (which also relates to the adjustment of accounts on appropriation of land) shall not apply.

76 Tenancies at a rent unalterable over a long period

- (1) This section applies to a tenancy of any of the houses to which a local authority's housing revenue account relates (including a tenancy granted before the coming into force of this Act) other than—
 - (a) a house for the time being subject to a weekly or other periodical tenancy,
 - (b) a house for the time being subject to a tenancy granted, by the authority or any predecessor in title, before 1st August 1971,
 - (c) a house which, whether before the coming into force of this Act or later, was acquired by the authority from a person other than another local authority, which when acquired was regarded by the authority as only likely to be available for use as a house for a period not exceeding ten years and which is for the time being subject to a tenancy which was granted before it was so acquired, or
 - (d) a house for the time being excluded from this section by a direction of the Secretary of State subject to such conditions, if any, and for such period, as may be specified in the direction, being a general direction, or a direction given on the application of an authority for a particular case,
 if, apart from this section, the authority would not have the rights conferred by subsection (2) of this section.

- (2) It shall be an implied term of the tenancy that the authority may increase the rent payable under the tenancy with effect from the beginning of any rental period by a notice given to the tenant not less than four weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

Where in accordance with this section a term is to be so implied for the benefit of the landlord, it shall also be an implied term of the tenancy that the tenant may terminate the tenancy with effect from the beginning of any rental period by a notice given not later than two weeks before the beginning of that rental period.

- (3) Where an authority give a notice of increase under subsection (2) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions express or implied of the tenancy, and—
- (a) the notice to terminate the tenancy is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
 - (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.
- (4) An authority's notice of increase under subsection (2) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to terminate the tenancy must be received by the authority and the tenancy be made to terminate.
- (5) If any rental period exceeds six weeks, this section shall apply as if references to the beginning of the rental period included references to the beginning of the second or any subsequent week in the rental period.

77 Amendment of sections 1 and 86 of Act of 1971

- (1) Section 1(1) of the Act of 1971 (protected tenancies) shall have effect as if for paragraph (a) there were substituted the following paragraph—
- “(a) the rateable value of the dwelling-house on the appropriate day exceeded or, as the case may be, exceeds £200 ; or”.
- (2) Section 86(1) (dwelling-houses to which Part VII of that Act applies) shall have effect as if for the words from " which has " to the end there were substituted the words " the rateable value of which on the appropriate day did not or, as the case may be, does not exceed £200 ".

General

78 Interpretation

- (1) In this Act, unless the context otherwise requires—
- " the Act of 1966 " means the Housing (Scotland) Act 1966;
 - " the Act of 1968 " means the Housing (Financial Provisions) (Scotland) Act 1968;

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" the Act of 1969 " means the Housing (Scotland) Act 1969;

" the Act of 1971 " means the Rent (Scotland) Act 1971;

" development corporation " has the same meaning as in section 2 of the New Towns (Scotland) Act 1968 ;

" development corporation house " means a house owned by a development corporation and available to them for the purpose of providing rented accommodation and " the number of development corporation houses " for any period means the number of such houses on the relevant date, except that for the purposes of section. 8 of this Act for the year 1971-72 it means such number as the Secretary of State deems to be development corporation houses for that year;

" house " has the same meaning as in the Act of 1966, except that it includes any structure made available under section 1 of the Housing (Temporary Accommodation) Act 1944;

" housing association " has the same meaning as in the Act of 1966, except that, subject to sections 58 and 59 of this Act, it does not include the Scottish Special Housing Association or a development corporation or any association which is, or is deemed to be, duly registered under the Industrial and Provident Societies Act 1965 and whose rules restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting or assigning of tenancies to persons other than members;

" housing authority " means a local authority, a development corporation or the Scottish Special Housing Association;

" land " includes any estate or interest in land ;

" local authority " has the meaning assigned to it by section 1 of the Act of 1966 ;

" overspill agreement ", has the same meaning as in section 9(1) of the Housing and Town Development (Scotland) Act 1957;

" the relevant date " in relation to any period means the date occurring six months after the beginning of that period;

" rental period " means a period in respect of which a payment of rent falls to be made;

" Scottish Special Housing Association house " means a house owned by the Scottish Special Housing Association and available to them for the purpose of providing rented accommodation and " the number of Scottish Special Housing Association houses " for any period means the number of such houses on the relevant date ;

" a service charge " means any charge referred to in section 32 of this Act;

" standard rent " means, in relation to a local authority, the rent payable in respect of a house to which the housing revenue account relates before account is taken of any rent rebate, service charge or supplementary charge and, in relation to a development corporation or the Scottish Special Housing Associations, means the rent payable in respect of a development corporation house or a Scottish Special Housing Association house before account is taken of any rent rebate or any sums payable for services or furniture; and the income receivable from the standard rent of a house for any period means the income which would be received for that period if the house were let throughout that period and the rent were paid in full;

" supplementary charge " has the meaning assigned to it by section 33(3) of this Act;

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" tenant " includes a joint-tenant and a sub-tenant;

" year " means, in relation to a local authority, a financial year within the meaning of section 174 of the Local Government (Scotland) Act 1947 and, in relation to a development corporation, the Scottish Special Housing Association or a housing association, means a year ending on 31st March ;

" the year 1972-73 " means the year beginning in 1972 and ending in 1973, and so on.

- (2) In this Act any reference to an amount per house or an amount of income per house or an amount of expenditure per house shall be construed as a reference, in the case of a local authority, to an aggregate amount for a period divided by the number of houses to which the local authority's housing revenue account relates for that period and, in the case of a development corporation or the Scottish Special Housing Association, as a reference to an aggregate amount for a period divided by the number of development corporation houses or the Scottish Special Housing Association houses for that period.
- (3) In this Act any reference to houses to which the housing revenue account relates shall be construed as a reference to houses completed and available to a local authority for the purpose of providing rented accommodation and in respect of which income and expenditure is to be accounted for in that account in accordance with section 23 of this Act, and any reference to the number of such houses for any period shall be construed as a reference to the number of houses on the relevant date.
- (4) References in this Act to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended, and as including references thereto as applied, by any other enactment, including any enactment contained in this Act.

79 Minor and consequential amendments, transitional provisions and repeals

- (1) The enactments specified in Schedule 9 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.
- (2) The transitional provisions contained in Schedule 10 to this Act shall have effect.
- (3) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule, and subject to the provisions of Schedules 8 and 10 to this Act.

80 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
 - (a) any expenses of the Secretary of State under this Act, and
 - (b) any increase in the sums payable out of money provided by Parliament under any Act other than this Act which is attributable to any provision of this Act.
- (2) There shall be paid into the Consolidated Fund—
 - (a) any payments to be made to, or to be recoverable by, the Secretary of State under this Act, and
 - (b) any increase in the sums so payable under any Act other than this Act which is attributable to any provision of this Act.

81 Citation, commencement and extent

- (1) This Act may be cited as the Housing (Financial Provisions) (Scotland) Act 1972.
- (2) The Housing (Scotland) Acts 1966 to 1971 and this Act (except Part V) may be cited together as the Housing (Scotland) Acts 1966 to 1972, and the Rent (Scotland) Act 1971 and Part V of this Act may be cited together as the Rent (Scotland) Acts 1971 and 1972.
- (3) Except as otherwise expressly provided, this Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed:

Provided that the Secretary of State may by order made by statutory instrument bring any provision of this Act into force, except any provision which expressly provides otherwise, before the expiration of the said period of one month.
- (4) Any reference in any provision of this Act to the coming into force of this Act shall be construed as a reference to the date on which that provision comes into force.
- (5) This Act shall extend to Scotland only.