



# Tenants' Rights, Etc. (Scotland) Act 1980

## 1980 CHAPTER 52

### PART III

#### MISCELLANEOUS MATTERS RELATING TO PUBLIC SECTOR HOUSING AUTHORITIES

##### *Allocation*

#### **26 Restriction on residential requirements**

- (1) In considering whether an applicant for local authority housing is entitled to be admitted to a housing list, an islands or district council shall take no account of the age of the applicant provided that he is over the age of 18 years.
- (2) In the allocation of local authority housing, an islands or district council shall take no account of the length of time for which an applicant has resided in its area nor of the age of the applicant provided that he is over the age of 18 years, nor of the income of the applicant and his family.
- (3) 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) is over 60 years of age 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 fact that the applicant is resident in the area.
- (4) 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 (3) above applies no less favourably than it applies them to a tenant of the local authority whose housing needs

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are similar to those of the applicant and who is seeking a transfer to another dwelling-house belonging to the local authority.

- (5) In the allocation of local authority housing, an islands or district council shall not impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing.
- (6) In considering an application for admission to a housing list and in the allocation of local authority housing an islands or district council shall take no account of any outstanding liability (for payment of rent or otherwise) attributable to the tenancy of any dwelling-house of which the applicant is not, and was not when the liability accrued, a tenant.
- (7) In this section and in section 27 of this Act " housing list" means a list of applicants for local authority housing which is kept by an islands or district council in connection with allocation of housing.

## **27 Publication of rules**

- (1) It shall be the duty of every islands and district council, the Scottish Special Housing Association and Development Corporations established under an order made, or having effect as if made, under the New Towns (Scotland) Act 1968, to publish in accordance with subsection (2) below, within 6 months of the commencement of this section 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 dwelling-houses ;
  - (c) transfer of tenants from dwelling-houses owned by it to dwelling-houses owned by other bodies ;
  - (d) exchanges of dwelling-houses.
- (2) The rules to be published by a body in accordance with subsection (1) above 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 at its principal offices and its housing department offices.
- (3) An applicant for housing provided by a body mentioned in subsection (1) above 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.

### *Abolition of reserve powers to limit rents*

## **28 Repeal of provisions of Housing Rents and Subsidies (Scotland) Act 1975**

- (1) Section 1(5) of the Housing Rents and Subsidies (Scotland) Act 1975 (no provision to be made for surplus in housing revenue account) is repealed.
- (2) For sub-paragraph 11(1) of Schedule 4 to the Housing (Financial Provisions) (Scotland) Act 1972 there shall be substituted the following sub-paragraph—
  - “11 (1) if at any time a credit balance is shown in the housing revenue account, the whole or part of it may be made available for any purpose for which

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the general fund of the local authority maintained under section 93 of the Local Government (Scotland) Act 1973 may lawfully be applied.”

- (3) Section 2 of the Housing Rents and Subsidies (Scotland) Act 1975 (reserve powers to limit rents) is repealed.

### *Home loans*

## **29 Amendments relating to home loans by local authorities**

- (1) Section 49 of the Housing (Financial Provisions) (Scotland) Act 1968 shall be amended as follows—

- (a) in subsection (1), the words " subject to such conditions as may be approved by the Secretary of State " are repealed; and
- (b) after subsection (1) insert a new subsection as follows—

“(1A) In determining whether to advance money under subsection (1) above, the local authority shall have regard to any advice which may be given from time to time by the Secretary of State.”.

- (2) In section 24 of the Housing (Scotland) Act 1974 there shall be substituted for subsection (6) the following subsection—

“(6) The rate of interest payable on a loan under this section shall be a variable rate calculated under section 30 of the Tenants' Rights, Etc. (Scotland) Act 1980.”.

## **30 Local authority home loan interest rates**

- (1) Subject to subsections (2) and (3) below, from the commencement of this section—

- (a) any advance of money under a power conferred by section 49 of the Housing (Financial Provisions) (Scotland) Act 1968 (advances to increase housing accommodation), or under any other power to make loans for the like purposes ; and
- (b) any sum secured under any arrangement by which the price or part of the price of a dwelling-house sold by an islands or district council is secured by a standard security; and
- (c) any sum secured under any security which is taken over by an islands or district council under a power conferred by section 31 of this Act (local authority indemnities for building societies etc.),

is a variable interest home loan for the purposes of this section.

- (2) This section does not apply to an advance made before the commencement of this section, or to a sum secured in respect of the price of a dwelling-house agreed to be sold before the said commencement, or (where paragraph 1(c) above applies) to a security granted before the said commencement.
- (3) This section shall not apply to an advance made in implement of a contract constituted by an offer of advance made before the commencement of this section and an unqualified acceptance of the said offer after the said commencement.
- (4) Islands and district councils shall, in respect of their variable interest home loans, charge a rate of interest which shall be equal to whichever is the higher of the following—

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- (a) the standard rate for the time being, as declared by the Secretary of State in accordance with subsection (5) below;
  - (b) the locally determined rate calculated in accordance with subsection (6) below.
- (5) In considering what rate to declare as the standard rate for the purposes of subsection (4) above, the Secretary of State shall take into account interest rates charged by building societies in the United Kingdom and any movement in those rates, and the standard rate shall be effective from the date when it is declared by the Secretary of State.
- (6) The locally determined rate for the purposes of this section shall be the rate which is necessary to service loan charges (within the meaning of the Housing (Financial Provisions) (Scotland) Act 1968) on money which is to be applied to making variable interest home loans during the relevant period of six months (referred to in subsection (7) below), together with the addition of one quarter per cent, to cover the administrative cost of making and managing variable interest home loans.
- (7) The locally determined rate, for the purposes of this section, shall be determined by each islands or district council for the period of 6 months—
  - (a) beginning at the commencement of this section ; and
  - (b) thereafter, beginning immediately after the expiry of every previous period, not less than one month before the beginning of the relevant period.
- (8) Where, by reason of the declaration of a new standard rate or, as the case may be, of a new locally determined rate, the rate of interest being charged by an islands or district council in respect of its variable interest home loans no longer complies with this section, it shall, within 2 months of the said declaration, serve on all borrowers of variable interest home loans a notice which shall, as from one month after the service of the said notice—
  - (a) vary the rate of interest payable by the borrower ; and
  - (b) where as the result of the variation, the amount outstanding under the advance or security would increase if the periodic repayments were not increased, increase the amount of the periodic repayments to such an amount as will ensure that the said outstanding amount will not increase.
- (9) Notwithstanding anything contained in subsections (1) to (8) above, but subject to subsections (11) and (12) below, the Secretary of State may, where he considers that the interest rate charged by an islands or district council does not satisfy the requirements of subsection (4) above, direct an islands or district council—
  - (a) to charge an interest rate specified in the direction; and
  - (b) to vary the rate in accordance with the provisions of subsection (8) above.
- (10) Nothing in this section shall affect the operation of section 1(4)(b) of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (under which a part of certain loans may be free of interest for up to 5 years).
- (11) Notwithstanding any other provision of this section, an islands or district council may, where the conditions set out in subsection (12) below are satisfied, give assistance to a person acquiring a house in need of repair or improvement by making provision for waiving or reducing, for a period ending not later than five years after the date of an advance of money of the kind mentioned in subsection (1)(a) above or of the granting of a security under an arrangement of the kind mentioned in subsection (1)(b) above,

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the interest payable on the sum advanced or remaining outstanding under the security, as the case may be.

- (12) The conditions mentioned in subsection (11) above are that—
- (a) the assistance is given in accordance with a scheme which has been approved by the Secretary of State or which conforms with such requirements as may be specified by the Secretary of State by order made by statutory instrument with the consent of the Treasury ; and
  - (b) the person acquiring the house has entered into an agreement with the local authority to carry out, within a period specified in the agreement, works of repair or improvement therein specified.

### **31 Local authority and Housing Corporation indemnities for building societies etc.**

- (1) An islands or district council or the Housing Corporation may, with the approval of the Secretary of State, enter into an agreement with a building society (within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967) under which the council or, as the case may be, the Housing Corporation binds itself to indemnify the building society in respect of—
  - (a) the whole or part of any outstanding indebtedness of a borrower ; and
  - (b) loss or expense to the building society resulting from the failure of the borrower duly to perform any obligation imposed on him by the standard security.
- (2) The agreement may also, where the borrower is made party to it, enable or require the council, or as the case may be, the Housing Corporation in specified circumstances to take an assignation of the rights and liabilities of the building society under the standard security.
- (3) Approval of the Secretary of State under subsection (1) above may be given generally in relation to agreements which satisfy specified requirements, or in relation to individual agreements, and with or without conditions, as he thinks fit, and such approval may be withdrawn at any time on one month's notice.
- (4) Before issuing any general approval under subsection (1) above the Secretary of State shall consult with such bodies as appear to him to be representative of islands and district councils, and of building societies, and also with the Housing Corporation and with the Chief Registrar of Friendly Societies.
- (5) Section 16(3) and (5) of the Restrictive Trade Practices Act 1976 (recommendations by services supply association to members) shall not apply to recommendations made to building societies about the making of agreements under this section provided that the recommendations are made with the approval of the Secretary of State.
- (6) Section 50 of the Housing (Financial Provisions) (Scotland) Act 1968 is repealed.
- (7) Schedule 3 to the Building Societies Act 1962 shall be amended as follows—
  - (a) in paragraph 3(2)(b), after " Scotland " insert the words  
“and section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980”; and
  - (b) at the end add the following paragraph—

“15 An agreement under section 31 of the Tenants' Rights, Etc. (Scotland) Act 1980 (agreement by local authority or the

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Housing Corporation to indemnify building society in respect of  
borrower's default).”.

(8) Schedule 3 to the Building Societies Act (Northern Ireland) 1967 shall be amended  
as follows—

- (a) in paragraph 3(2)(c) after " Scotland " insert " section 31 of the Tenants'  
Rights, Etc. (Scotland) Act 1980, " ; and
- (b) at the end add the following paragraph—

“15        An agreement under section 31 of the Tenants' Rights,  
Etc. (Scotland) Act 1980 (local authority indemnities for  
building societies, etc.) " Exchequer contributions in respect of  
expenditure on amenities..”

### **32        Variation of exchequer contribution**

In section 59(3) of the Housing (Scotland) Act 1969 for the words from " one-half " to the end there shall be substituted the words " such percentage of the expenditure approved for the purposes of this section as the Secretary of State shall, with the consent of the Treasury, prescribe by order made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament. "