



Housing and Planning Act 1986

1986 CHAPTER 63

PART I **U.K.**

HOUSING

The right to buy

1 ^{F1} **E+W**

Textual Amendments

F1 S. 1 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#)

2 **Discount on right to buy and similar sales.** **E+W**

(1) In section 129 of the ^{M1}Housing Act 1985 (discount on exercise of right to buy), for subsections (1) and (2) substitute—

“(1) Subject to the following provisions of this Part, a person exercising the right to buy is entitled to a discount of a percentage calculated by reference to the period which is to be taken into account in accordance with Schedule 4 (qualifying period for right to buy and discount).

(2) The discount is, subject to any order under subsection (2A)—

- (a) in the case of a house, 32 per cent. plus one per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 60 per cent. ;
- (b) in the case of a flat, 44 per cent. plus two per cent. for each complete year by which the qualifying period exceeds two years, up to a maximum of 70 per cent.

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- (2A) The Secretary of State may by order made with the consent of the Treasury provide that, in such cases as may be specified in the order—
- (a) the minimum percentage discount,
 - (b) the percentage increase for each complete year of the qualifying period after the first two, or
 - (c) the maximum percentage discount,
- shall be such percentage, higher than that specified in subsection (2), as may be specified in the order.
- (2B) An order—
- (a) may make different provision with respect to different cases or descriptions of case,
 - (b) may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient, and
 - (c) shall be made by statutory instrument and shall not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.”.
- (2) The amendment made by subsection (1) does not apply where—
- (a) the tenant’s notice claiming to exercise the right to buy or, as the case may be, to acquire an additional share under a shared ownership lease was served before the commencement of that subsection, and
 - (b) the landlord has before commencement served its notice as to the terms of exercise of that right, that is, its notice under section 125 of, or paragraph 1(3) of Schedule 8 to, the ^{M2}Housing Act 1985,
- but without prejudice to the tenant’s right to withdraw the notice served before commencement and serve a new notice.
- (3) In the following provisions (which in the case of disposals at a discount require a covenant for repayment of a proportion of the discount if the dwelling-house is disposed of within five years)—
- section 35(2) of the Housing Act 1985 (voluntary disposals by local authorities),
- section 155(2) of that Act (disposals in pursuance of the right to buy),
- section 155(3) of that Act (disposals in pursuance of the right to be granted a shared ownership lease), and
- paragraph 1(2) of Schedule 2 to the ^{M3}Housing Associations Act 1985 (voluntary disposals by registered housing associations),
- for “five years” substitute “three years” and for “20 per cent.” substitute “one-third”.
- (4) A conveyance or lease containing the covenant required by any of the provisions mentioned in subsection (3) which was executed before the amendments made by that subsection came into force shall, provided no amount was then or had previously been payable under the covenant, have effect with such modifications as may be necessary to bring it into conformity with the amendments.

Marginal Citations

M1 1985 c. 68.

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M2 1985 c. 68.

M3 1985 c. 69.

3 ^{F2} **S**

Textual Amendments

F2 S. 3 repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

4 **Service charges and other contributions payable after exercise of right to buy.** **E**
+W

(1) In section 125 of the ^{M4}Housing Act 1985 (landlord’s notice of purchase price and other matters), for subsection (4) (notice to include estimate of amount of service charges) substitute—

“(4) Where the notice states provisions which would enable the landlord to recover from the tenant—

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).”.

(2) After that section insert—

“125A Estimates and information about service charges.

(1) A landlord’s notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—

- (a) the landlord’s estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and
- (b) the aggregate of those estimated amounts,

and shall contain a statement of the reference period adopted for the purpose of the estimates.

(2) A landlord’s notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain—

- (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
- (b) a statement of the effect of—

paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant), and section 450A and the regulations made under that section (right to a loan in respect of certain service charges).

(3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—

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- (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of these estimated costs and contributions, and
- (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the tenant.

125B Estimates and information about improvement contributions.

- (1) A landlord's notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—
 - (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
 - (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.
- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
 - (a) the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and
 - (b) the aggregate amounts of those estimated costs and contributions.

125C Reference period for purposes of ss. 125A and 125B.

- (1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—
 - (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
 - (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.
- (2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.”.
- (3) In section 127 of the ^{M5}Housing Act 1985 (valuation of dwelling-house for purposes of right to buy) in subsection (1) (basis of valuation), after paragraph (b) insert—
 - “, and
 - (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.”.

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- (4) In Part III of Schedule 6 to the ^{M6}Housing Act 1985 (terms of lease granted in pursuance of right to buy), after paragraph 16 insert—

Service charges and other contributions payable by the tenant

“16A (1) The lease may require the tenant to bear a reasonable part of the costs incurred by the landlord—

- (a) in discharging or insuring against the obligations imposed by the covenants implied by virtue of paragraph 14(2) (repairs, making good structural defects, provision of services, etc.), or
- (b) in insuring against the obligations imposed by the covenant implied by virtue of paragraph 14(3) (rebuilding or reinstatement, etc.),

and to the extent that by virtue of paragraph 15(3) (effect of provision of superior lease) such obligations are not imposed on the landlord, to bear a reasonable part of the costs incurred by the landlord in contributing to costs incurred by a superior landlord or other person in discharging or, as the case may be, insuring against obligations to the like effect.

- (2) Where the lease requires the tenant to contribute to the costs of insurance, it shall provide that the tenant is entitled to inspect the relevant policy at such reasonable times as may be specified in the lease.
- (3) Where the landlord does not insure against the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.
- (4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.
- (5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).

“16B (1) Where a lease of a flat requires the tenant to pay service charges in respect of repairs (including works for the making good of structural defects), his liability in respect of costs incurred in the initial period of the lease is restricted as follows.

- (2) He is not required to pay in respect of works itemised in the estimates contained in the landlord’s notice under section 125 any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
- (3) He is not required to pay in respect of works not so itemised at a rate exceeding—
 - (a) as regards parts of the initial period falling within the reference period for the purposes of the estimates contained in the landlord’s notice under section 125, the estimated annual average amount shown in the estimates;

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- (b) as regards parts of the initial period not falling within that reference period, the average rate produced by averaging over the reference period all works for which estimates are contained in the notice ;
- together, in each case, with an inflation allowance.
- (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
- (a) if the lease includes provision for service charges to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period ;
 - (b) if the lease provides for service charges to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease ; and
 - (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.
- “16C (1) Where a lease of a flat requires the tenant to pay improvement contributions, his liability in respect of costs incurred in the initial period of the lease is restricted as follows.
- (2) He is not required to make any payment in respect of works for which no estimate was given in the landlord’s notice under section 125.
 - (3) He is not required to pay in respect of works for which an estimate was given in that notice any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.
 - (4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—
 - (a) if the lease includes provision for improvement contributions to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period ;
 - (b) if the lease provides for improvement contributions to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease ; and
 - (c) if the tenant served notice under section 142 deferring completion, the initial period ends on the date on which it would have ended if the lease had been granted on the date on which the notice was served.
- “16D (1) The Secretary of State may by order prescribe—
- (a) the method by which inflation allowances for the purposes of paragraph 16B or 16C are to be calculated by reference to published statistics ; and
 - (b) the information to be given to a tenant when he is asked to pay a service charge or improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.

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(2) An order—

- (a) may make different provision for different cases or descriptions of case, including different provision for different areas ;
- (b) may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks appropriate; and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

(5) For paragraph 18 of Schedule 6 to the ^{M7}Housing Act 1985 (avoidance of certain provisions relating to service charges) substitute—

“18 Where the dwelling-house is a flat, a provision of the lease or of an agreement collateral to it is void in so far as it purports—

- (a) to authorise the recovery of such a charge as is mentioned in paragraph 16A (contributions in respect of repairs, etc.) otherwise than in accordance with that paragraph and paragraph 16B (restrictions in initial period of lease) ; or
- (b) to authorise the recovery of any charge in respect of costs incurred by the landlord—
 - (i) in discharging the obligations imposed by the covenant implied by paragraph 14(3) (rebuilding or reinstatement, &c.), or those obligations as modified in accordance with paragraph 14(4), or
 - (ii) in contributing to costs incurred by a superior landlord or other person in discharging obligations to the like effect ; or
- (c) to authorise the recovery of an improvement contribution otherwise than in accordance with paragraph 16C (restrictions in initial period of lease).”.

(6) The amendments in this section do not apply where—

- (a) the tenant’s notice claiming to exercise the right to buy was served before the commencement of this section, and
- (b) the landlord has before commencement served his notice under section 125 of the ^{M8}Housing Act 1985 (notice of terms of exercise of right) ;

but without prejudice to the tenant’s right to withdraw the notice served before commencement and serve a new notice.

Marginal Citations

- M4** 1985 c. 68.
- M5** 1985 c. 68.
- M6** 1985 c. 68.
- M7** 1985 c. 68.
- M8** 1985 c. 68.

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5 Loans in respect of service charges. **E+W**

In Part XIV of the Housing Act 1985 (loans for acquisition or improvement of housing), after section 450 insert—

“ Loans in respect of service charges

450A Right to a loan in certain cases after exercise of right to buy.

- (1) The Secretary of State may by regulations provide that where—
 - (a) a lease of a flat has been granted in pursuance of Part V (the right to buy), and
 - (b) the landlord is the housing authority who granted the lease or another housing authority,
 the tenant has, in such circumstances as may be prescribed, a right to a loan in respect of service charges to which this section applies.
- (2) This section applies to service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land) which are payable in the period beginning with the grant of the lease and ending with the tenth anniversary of the grant or, where the lease provides for service charges to be payable by reference to a specified annual period, with the end of the tenth such period beginning after the grant of the lease.
- (3) The regulations may provide that the right—
 - (a) arises only in respect of so much of a service charge as exceeds a minimum qualifying amount and does not exceed a maximum qualifying amount, and
 - (b) does not arise unless the amount thus qualifying for a loan itself exceeds a minimum amount,
 the amounts being either prescribed or ascertained in a prescribed manner.
- (4) The regulations shall provide that the right is—
 - (a) where the landlord is a housing association, a right to an advance from the Housing Corporation, and
 - (b) in any other case, a right to leave the whole or part of the service charge outstanding.
- (5) The regulations may, as regards the procedure for exercising the right, provide—
 - (a) that a demand for service charges in respect of repairs shall inform the tenant whether, in the landlord’s opinion, he is entitled to a loan and, if he is, what he must do to claim it,
 - (b) that the right must be claimed within a prescribed period of the demand ; and
 - (c) that on the right being claimed the lender shall inform the tenant of the terms of the loan and of the prescribed period within which the tenant may accept the offer.
- (6) In this section—

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“housing authority” includes any housing association within section 80 (the landlord condition for secure tenancies) ; and

“repairs” includes works for making good a structural defect.

450B Power to make loans in other cases.

- (1) The Secretary of State may by regulations provide that where—
 - (a) a housing authority is the landlord of a flat under a long lease granted or assigned by the authority or by another housing authority, and
 - (b) the tenant is liable under the terms of the lease to pay service charges in respect of repairs (whether to the flat, the building in which it is situated or any other building or land),
 the landlord or, where the landlord is a housing association, the Housing Corporation may, in such circumstances as may be prescribed, make a loan to the tenant in respect of the service charges.
- (2) The regulations shall provide that the power is—
 - (a) where the landlord is a housing association, a power of the Housing Corporation to make an advance, and
 - (b) in any other case, a power of the landlord to leave the whole or part of the service charge outstanding.
- (3) Where the tenant is entitled to a loan in pursuance of regulations under section 450A, the power conferred by regulations under this section may be exercised in respect of any part of the service charge which does not qualify for a loan under that section.
- (4) In this section—

“housing authority” includes any housing association within section 80 (the landlord condition for secure tenancies) : and

“repairs” includes works for making good a structural defect.
- (5) This section does not affect any other power of the landlord, or the Housing Corporation, to make loans.

450C Supplementary provisions as to regulations under s. 450A or 450B.

- (1) This section applies to regulations under section 450A or 450B (regulations conferring right to loan, or power to make loan, in respect of service charges).
- (2) The regulations may provide that the right or, as the case may be, the power does not arise in the case of any prescribed description of landlord.
- (3) The regulations shall provide that the loan—
 - (a) in the case of a loan made in pursuance of regulations under section 450A (the right to a loan), shall be on such terms as may be prescribed, and
 - (b) in the case of a loan made by virtue of regulations under section 450B (power to make loan), shall be on such terms as the lender may determine subject to any provision made by the regulations ;

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and shall, in either case, be secured by a mortgage of the flat in question, but may be made whether or not the flat is adequate security for the loan.

- (4) The regulations may—
- (a) as regards the rate of interest payable on the loan, either prescribe the rate or provide that the rate shall be such reasonable rate as may be determined by the lender or, where the lender is a local authority, provide that Schedule 16 applies (local authority mortgage interest rates) ;
 - (b) as regards administrative expenses of the lender in connection with a loan, provide that the lender may charge such expenses to the borrower, to the extent that they do not exceed such amount as may be prescribed, and that the expenses so charged may, at the option of the borrower in the case of a loan under section 450A and at the option of the lender in the case of a loan under section 450B, be added to the amount of the loan.
- (5) The regulations may apply whenever the lease in question was granted or assigned and whenever the service charge in question became payable.
- (6) The regulations—
- (a) may make different provision for different cases or descriptions of case, including different provision for different areas ;
 - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate ; and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Commencement Information

II S. 5 wholly in force at 13.7.1992 see s. 57(2) and S.I. 1992/1753, art. 2(1).

Other Provisions with respect to public sector housing

6 Consultation before disposal to private sector landlord. E+W

- (1) In Part IV of the ^{M9}Housing Act 1985 (secure tenancies and rights of secure tenants), after section 106 insert—

“106A Consultation before disposal to private sector landlord.

- (1) The provisions of Schedule 3A have effect with respect to the duties of—
- (a) a local authority proposing to dispose of dwelling-houses subject to secure tenancies, and
 - (b) the Secretary of State in considering whether to give his consent to such a disposal,
- to have regard to the views of tenants liable as a result of the disposal to cease to be secure tenants.

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(2) In relation to a disposal to which that Schedule applies, the provisions of that Schedule apply in place of the provisions of section 105 (consultation on matters of housing management).”.

(2) After Schedule 3 to the Housing Act 1985 insert as Schedule 3A the Schedule set out in Schedule 1 to this Act (consultation before disposal to private sector landlord).

(3) The amendments made by this section apply to disposals after the commencement of this section.

Marginal Citations

M9 1985 c. 68.

7 F3 **E+W**

Textual Amendments

F3 Ss. 7, 13(1)–(3) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), Sch. 18

8 Preservation of right to buy on disposal to private sector landlord. **E+W**

(1) In Part V of the ^{M10}Housing Act 1985 (the right to buy), after section 171 insert—

“ Preservation of right to buy on disposal to private sector landlord

(1) The provisions of this Part continue to apply where a person ceases to be a secure tenant of a dwelling-house by reason of the disposal by the landlord of an interest in the dwelling-house to a person who is not an authority or body within section 80 (the landlord condition for secure tenancies).

(2) In the following provisions of this Part—

- (a) references to the preservation of the right to buy and to a person having the preserved right to buy are to the continued application of the provisions of this Part by virtue of this section and to a person in relation to whom those provisions so apply ;
- (b) “qualifying disposal” means a disposal in relation to which this section applies, and
- (c) the “former secure tenant” and the “former landlord” are the persons mentioned in subsection (1).

(3) This section does not apply—

- (a) where the former landlord was a person against whom the right to buy could not be exercised by virtue of paragraph 1, 2 or 3 of Schedule 5 (charities and certain housing associations), or
- (b) in such other cases as may be excepted from the operation of this section by order of the Secretary of State.

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- (4) Orders under subsection (3)(b)—
- (a) may relate to particular disposals and may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

171B Extent of preserved right ; qualifying persons and dwelling-houses.

- (1) A person to whom this section applies has the preserved right to buy so long as he occupies the relevant dwelling-house as his only or principal home, subject to the following provisions of this Part.
- (2) References in this Part to a “qualifying person” and “qualifying dwelling-house”, in relation to the preserved right to buy, are to a person who has that right and to a dwelling-house in relation to which a person has that right.
- (3) The following are the persons to whom this section applies—
 - (a) the former secure tenant, or in the case of a joint tenancy, each of them ;
 - (b) a qualifying successor as defined in subsection (4) ; and
 - (c) a person to whom a tenancy of a dwelling-house is granted jointly with a person who has the preserved right to buy in relation to that dwelling-house.
- (4) The following are qualifying successors for this purpose—
 - (a) where the former secure tenancy was not a joint tenancy, a person who, on the death of the former secure tenant, becomes by virtue of paragraph 2 or 3 of Part I of Schedule 1 to the Rent Act 1977 (surviving spouse or member of deceased tenant’s family) the statutory tenant of a dwelling-house in relation to which the former secure tenant had the preserved right to buy immediately before his death ;
 - (b) a person who becomes the tenant of a dwelling-house in pursuance of—
 - (i) a property adjustment order under section 24 of the Matrimonial Causes Act 1973, or
 - (ii) an order under Schedule 1 to the Matrimonial Homes Act 1983 transferring the tenancy,
 in place of a person who had the preserved right to buy in relation to that dwelling-house.
- (5) The relevant dwelling-house is in the first instance—
 - (a) in relation to a person within paragraph (a) of subsection (3), the dwelling-house which was the subject of the qualifying disposal ;
 - (b) in relation to a person within paragraph (b) of that subsection, the dwelling-house of which he became the statutory tenant or tenant as mentioned in subsection (4)(a) or (b) ;

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- (c) in relation to a person within paragraph (c) of subsection (3), the dwelling-house of which he became a joint tenant as mentioned in that paragraph.
- (6) If a person having the preserved right to buy becomes the tenant of another dwelling-house in place of the relevant dwelling-house (whether the new dwelling-house is entirely different or partly or substantially the same as the previous dwelling-house) and the landlord is the same person as the landlord of the previous dwelling-house or, where that landlord was a company, is a connected company, the new dwelling-house becomes the relevant dwelling-house for the purposes of the preserved right to buy.

For this purpose “connected company” means a subsidiary or holding company within the meaning of section 736 of the Companies Act 1985.

171C Modifications of this Part in relation to preserved right.

- (1) Where the right to buy is preserved, the provisions of this Part have effect subject to such exceptions, adaptations and other modifications as may be prescribed by regulations made by the Secretary of State.
- (2) The regulations may in particular provide—
 - (a) that paragraphs 5 to 11 of Schedule 5 (certain exceptions to the right to buy) do not apply ;
 - (b) that the right to a mortgage is exercisable against the former landlord or, if the former landlord was a housing association, against the Housing Corporation ;
 - (c) that the provisions of this Part relating to the light to be granted a shared ownership lease do not apply ; and
 - (d) that the landlord is not required to but may include a covenant for the repayment of discount, provided its terms are no more onerous than those of the covenant provided for in section 155.
- (3) The prescribed exceptions, adaptations and other modifications shall take the form of textual amendments of the provisions of this Part as they apply in cases where the right to buy is preserved ; and the first regulations, and any subsequent consolidating regulations, shall set out the provisions of this Part as they so apply.
- (4) The regulations—
 - (a) may make different provision for different cases or descriptions of case, including different provision for different areas,
 - (b) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate, and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

171D Subsequent dealings ; disposal of landlord’s interest in qualifying dwelling-house.

- (1) The disposal by the landlord of an interest in the qualifying dwelling-house, whether his whole interest or a lesser interest, does not affect the preserved right to buy, unless—

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- (a) as a result of the disposal an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
 - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),
- in which case the right to buy ceases to be preserved.
- (2) The disposal by the landlord of a qualifying dwelling-house of less than his whole interest as landlord of the dwelling-house, or in part of it, requires the consent of the Secretary of State, unless the disposal is to the qualifying person or persons.
- (3) Consent may be given in relation to a particular disposal or generally in relation to disposals of a particular description and may, in either case, be given subject to conditions.
- (4) A disposal made without the consent required by subsection (2) is void, except in a case where, by reason of a failure to make the entries on the land register or land charges register required by Schedule 9A, the preserved right to buy does not bind the person to whom the disposal is made.

171E Subsequent dealings ; termination of landlord’s interest in qualifying dwelling-house.

- (1) On the termination of the landlord’s interest in the qualifying dwelling-house—
- (a) on the occurrence of an event determining his estate or interest, or by re-entry on a breach of condition or forfeiture, or
 - (b) where the interest is a leasehold interest, by notice given by him or a superior landlord, on the expiry or surrender of the term, or otherwise (subject to subsection (2)),
- the right to buy ceases to be preserved.
- (2) The termination of the landlord’s interest by merger on his acquiring a superior interest, or on the acquisition by another person of the landlord’s interest together with a superior interest, does not affect the preserved right to buy, unless—
- (a) as a result of the acquisition an authority or body within section 80(1) (the landlord condition for secure tenancies) becomes the landlord of the qualifying person or persons, or
 - (b) paragraph 6 of Schedule 9A applies (effect of failure to register entry protecting preserved right to buy),
- in which case the right to buy ceases to be preserved.
- (3) Where the termination of the landlord’s interest as mentioned in subsection (1) is caused by the act or omission of the landlord, a qualifying person who is thereby deprived of the preserved right to buy is entitled to be compensated by him.

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171F Subsequent dealings : transfer of qualifying person to alternative accomodation.

The court shall not order a qualifying person to give up possession of the qualifying dwelling-house in pursuance of section 98(1)(a) of the Rent Act 1977 (suitable alternative accommodation) unless the court is satisfied—

- (a) that the preserved right to buy will, by virtue of section 171B(6) (accommodation with same landlord or connected company), continue to be exercisable in relation to the dwelling-house offered by way of alternative accommodation and that the interest of the landlord in the new dwelling-house will be—
 - (i) where the new dwelling-house is a house, not less than the interest of the landlord in the existing dwelling-house, or
 - (ii) where the new dwelling-house is a flat, not less than the interest of the landlord in the existing dwelling-house or a term of years of which 80 years or more remain unexpired, whichever is the less; or
- (b) that the landlord of the new dwelling-house will be an authority or body within section 80(1) (the landlord condition for secure tenancies).

171G Land registration and related matters.

Schedule 9A has effect with respect to registration of title and related matters arising in connection with the preservation of the right to buy.

171H Disposal after notice claiming to exercise right to buy, etc.

- (1) Where notice has been given in respect of a dwelling-house claiming to exercise the right to buy or the right to a mortgage and before the completion of the exercise of that right the dwelling-house is the subject of—
 - (a) a qualifying disposal, or
 - (b) a disposal to which section 171D(1)(a) or 171E(2)(a) applies (disposal to authority or body satisfying landlord condition for secure tenancies),

all parties shall, subject to subsection (2), be in the same position as if the disponent had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
 - (a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
 - (b) the right to a mortgage becomes exercisable against the Housing Corporation rather than the former landlord, or vice versa, or
 - (c) any of the provisions of Schedule 5 (exceptions to the right to buy) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice

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or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.”.

- (2) After Schedule 9 to the ^{M11}Housing Act 1985 insert as Schedule 9A the Schedule set out in Schedule 2 to this Act (land registration and related matters where right to buy preserved).
- (3) The amendments made by this section apply to qualifying disposals on or after the commencement of this section.

Marginal Citations

M10 1985 c. 68

M11 1985 c. 68.

9 **Redevelopment of dwelling-house subject to secure tenancy.** **E+W**

- (1) In Schedule 2 to the Housing Act 1985 (grounds for possession of dwelling houses let under secure tenancies), in Part II (grounds on which court may order possession if suitable alternative accommodation is available), after ground 10 (redevelopment by landlord) insert—

“ Ground 10A

The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Housing Corporation in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

or

Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.”.

- (2) At the end of that Schedule insert—

“PART V **E+W**

APPROVAL OF REDEVELOPMENT SCHEMES FOR PURPOSES OF GROUND 10A

- 1 (1) The Secretary of State may, on the application of the landlord, approve for the purposes of ground 10A in Part II of this Schedule a scheme for the disposal and redevelopment of an area of land consisting of or including the whole or part of one or more dwelling-houses.
- (2) For this purpose—
 - (a) “disposal” means a disposal of any interest in the land (including the grant of an option), and

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- (b) “redevelopment” means the demolition or reconstruction of buildings or the carrying out of other works to buildings or land ; and it is immaterial whether the disposal is to precede or follow the redevelopment.
- (3) The Secretary of State may on the application of the landlord approve a variation of a scheme previously approved by him and may, in particular, approve a variation adding land to the area subject to the scheme.
- 2 (1) Where a landlord proposes to apply to the Secretary of State for the approval of a scheme or variation it shall serve a notice in writing on any secure tenant of a dwelling-house affected by the proposal stating—
- (a) the main features of the proposed scheme or, as the case may be, the scheme as proposed to be varied,
 - (b) that the landlord proposes to apply to the Secretary of State for approval of the scheme or variation, and
 - (c) the effect of such approval, by virtue of section 84 and ground 10A in Part II of this Schedule, in relation to proceedings for possession of the dwelling-house,
- and informing the tenant that he may, within such period as the landlord may allow (which shall be at least 28 days from service of the notice), make representations to the landlord about the proposal.
- (2) The landlord shall not apply to the Secretary of State until it has considered any representations made to it within that period.
- (3) In the case of a landlord to which section 105 applies (consultation on matters of housing management) the provisions of this paragraph apply in place of the provisions of that section in relation to the approval or variation of a redevelopment scheme.
- 3 (1) In considering whether to give his approval to a scheme or variation the Secretary of State shall take into account, in particular—
- (a) the effect of the scheme on the extent and character of housing accommodation in the neighbourhood,
 - (b) over what period of time it is proposed that the disposal and redevelopment will take place in accordance with the scheme, and
 - (c) to what extent the scheme includes provision for housing provided under the scheme to be sold or let to existing tenants or persons nominated by the landlord ;
- and he shall take into account any representations made to him and, so far as they are brought to his notice, any representations made to the landlord.
- (2) The landlord shall give to the Secretary of State such information as to the representations made to it, and other relevant matters, as the Secretary of State may require.
- 4 The Secretary of State shall not approve a scheme or variation so as to include in the area subject to the scheme—

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- (a) part only of one or more dwelling-houses, or
 - (b) one or more dwelling-houses not themselves affected by the works involved in redevelopment but which are proposed to be disposed of along with other land which is so affected,
 unless he is satisfied that the inclusion is justified in the circumstances.
- 5 (1) Approval may be given subject to conditions and may be expressed to expire after a specified period.
- (2) The Secretary of State, on the application of the landlord or otherwise, may vary an approval so as to—
- (a) add, remove or vary conditions to which the approval is subject ;
 or
 - (b) extend or restrict the period after which the approval is to expire.
- (3) Where approval is given subject to conditions, the landlord may serve a notice under section 83 (notice of proceedings for possession) specifying ground 10A notwithstanding that the conditions are not yet fulfilled but the court shall not make an order for possession on that ground unless satisfied that they are or will be fulfilled.
- 6 Where the landlord is a registered housing association, the Housing Corporation, and not the Secretary of State, has the functions conferred by this Part of this Schedule.
- 7 In this Part of this Schedule references to the landlord of a dwelling-house include any authority or body within section 80 (the landlord condition for secure tenancies) having an interest of any description in the dwelling-house.”.
- (3) Section 29 of the ^{M12}Land Compensation Act 1973 (home loss payments) is amended as follows—
- (a) in subsection (1) (circumstances in which, and persons by whom, payment to be made) after paragraph (d) insert—
 - “(e) the making of an order for possession on ground 10 or 10A in Part II of Schedule 2 to the Housing Act 1985 ;” ; and
 - (b) in the same subsection, after paragraph (iv) insert—
 - “(v) where paragraph (e) applies, the landlord.”; and
 - ^{F4}(c)
- (4) In section 32 of the Land Compensation Act 1973 (supplementary provisions about home loss payments), after subsection (7A) insert—
- (
- Where a landlord obtains possession by agreement of a dwelling subject to a secure tenancy within the meaning of Part IV of the Housing Act 1985 and—

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- (a) notice of proceedings for possession of the dwelling has been served, or might have been served, specifying ground 10 or 10A in Part II of Schedule 2 to that Act, or
 - (b) the landlord has applied, or could apply, to the Secretary of State or the Housing Corporation for approval for the purposes of ground 10A of a redevelopment scheme including the dwelling, or part of it,
- the landlord may make to the person giving up possession a payment corresponding to any home loss payment which they would be required to make to him if an order for possession had been made on either of those grounds.”.

Textual Amendments

- F4** S. 9(3)(c) repealed (25. 09. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 84(6), [Sch. 19 Pt.III](#); S.I. 1991/2067, [art.3](#)

Marginal Citations

- M12** 1973 c. 26.

10 Management agreements. **E+W**

For section 27 of the ^{M13}Housing Act 1985 (agreements with housing co-operatives), and the heading preceding it, substitute—

“ Management agreements

27 Management agreements.

- (1) A local housing authority may, with the approval of the Secretary of State, agree that another person shall exercise as agent of the authority in relation to—
 - (a) such of the authority’s houses as are specified in the agreement, and
 - (b) any other land so specified which is held for a related purpose,such of the authority’s management functions as are so specified.
- (2) In this Act “management agreement” and “manager”, in relation to such an agreement, mean an agreement under this section and the person with whom the agreement is made.
- (3) A management agreement shall set out the terms on which the authority’s functions are exercisable by the manager.
- (4) A management agreement may, where the manager is a body or association, provide that the manager’s functions under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (5) The Secretary of State’s approval (which may be given unconditionally or subject to conditions) is required both for the terms of the agreement and the identity of the manager.
- (6) References in this section to the management functions of a local housing authority in relation to houses or land include—

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- (a) functions conferred by any statutory provision, and
- (b) the powers and duties of the authority as holder of an estate or interest in the houses or land in question.

27A Consultation required before management agreement can be approved.

- (1) A local housing authority who propose to enter into a management agreement shall serve notice in writing on the tenant of each house to which the proposal relates informing him of—
 - (a) such details of their proposal as the authority consider appropriate, but including the identity of the person who is to be the manager under the agreement,
 - (b) the likely consequences of the agreement for the tenant, and
 - (c) the effect of the provisions of this section,
 and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (2) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
 - (a) of any significant changes in their proposal, and
 - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal,
 and informing him of the effect of subsection (5) (approval to be withheld if majority of tenants are opposed).
- (3) The Secretary of State shall not entertain an application for approval of a management agreement unless the local housing authority certify that the requirements of subsections (1) and (2) as to consultation have been complied with; and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with those subsections.
- (4) The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.
- (5) The Secretary of State shall not give his approval if it appears to him that a majority of the tenants of the houses to which the agreement relates do not wish the proposal to proceed ; but this does not affect his general discretion to withhold his approval on grounds relating to whether the proposal has the support of the tenants or on any other ground.
- (6) In making his decision the Secretary of State may have regard to any information available to him; and the local housing authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.
- (7) A management agreement made with the approval of the Secretary of State is not invalidated by a failure on his part or that of the local housing authority to comply with the requirements of this section.

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- (8) In the case of secure tenants the provisions of this section apply in place of the provisions of section 105 (consultation on matters of housing management) in relation to the making of a management agreement.

27B Agreements with housing co-operatives under superseded provisions.

- (1) In this section “housing co-operative” means a society, company or body of trustees with which a housing co-operative agreement was made, that is to say—
- (a) an agreement to which paragraph 9 of Schedule 1 to the Housing Rents and Subsidies Act 1975 or Schedule 20 to the Housing Act 1980 applied or,
 - (b) an agreement made under section 27 above before the commencement of section 10 of the Housing and Planning Act 1986 (which substituted the present section 27).
- (2) A housing co-operative agreement made with a local housing authority which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 has effect as if made under the present section 27, so that, in particular, any terms of the agreement providing for the letting of land to the housing co-operative no longer have effect except in relation to lettings made before commencement.
- (3) A housing co-operative agreement made with a new town corporation or the Development Board for Rural Wales which is in force immediately before the commencement of section 10 of the Housing and Planning Act 1986 remains in force notwithstanding that the present section 27 does not apply to such authorities.
- (4) In this Act (except in section 27) the expressions “management agreement” and “manager”, in relation to such an agreement, include a housing co-operative agreement to which subsection (2) or (3) applies and the housing co-operative with whom the agreement is made.”.

Marginal Citations

M13 1985 c. 68

11 Proposals for co-operative management or ownership. E+W

In Part II of the Housing Act 1985, after the provisions inserted by section 10 above insert—

“ Proposals for co-operative management or ownership

27C Proposals for co-operative management or ownership.

- (1) If a qualifying tenants’ association serves written notice on the local housing authority—

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- (a) proposing that the authority should enter into a management agreement with the association with respect to houses and other land specified in the notice, or
 - (b) proposing that the association should acquire from the authority houses and other land specified in the notice at a specified price,
- the authority shall take the proposal into consideration.
- (2) If the authority have not, by the end of the period of six months after service of the notice, accepted the proposal in principle, they shall give the association a written statement of the reasons why they have not done so.
- (3) A tenants’ association is a qualifying association for the purposes of this section if—
- (a) it is a housing association of which at least half the members are tenants of houses specified in the notice,
 - (b) it has at least 50 such members or is registered under the Industrial and Provident Societies Act 1965, and
 - (c) at least half the tenants of the specified houses are members of the association.”.

Assured tenancies

12 F5 **E+W**

Textual Amendments

F5 Ss. 12, 13(5) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), [Sch. 18](#)

13 **Other amendments relating to assured tenancies.** **E+W**

(1) F6

(4) In section 37 of the ^{M14}Landlord and Tenant Act 1954 (compensation where an order for new tenancy precluded on certain grounds), in subsection (2) (computation of compensation) as set out in paragraph 7 of Schedule 5 to the Housing Act 1980 (application of 1.954 Act to assured tenancies), after “be” insert “the product of the appropriate multiplier and”.

The above amendment applies notwithstanding that the application to the court under section 24 of the Landlord and Tenant Act 1954 was made before the commencement of this section, unless the application has been finally disposed of within the meaning of section 64(2) of that Act before commencement.

(5) F7

(6) In Schedule 5 to the Housing Act 1980 (application of Landlord and Tenant Act 1954 to assured tenancies), for paragraph 8 (modification of provisions relating to contracting out) substitute—

“8 Section 38 applies as if the following provisions were omitted—

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- (a) in subsection (1), the words “(except as provided by subsection (4) of this section)” ;
- (b) in subsection (2), the words from the beginning to the end of paragraph (b) ;
- (c) subsections (3) and (4).”

The above amendment, so far as it relates to section 38(4) of the ^{M15}Landlord and Tenant Act 1954, does not apply to an agreement both approved by the court under that provision and entered into before the commencement of this section.

Textual Amendments

F6 Ss. 7, 13(1)–(3) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**

F7 Ss. 12, 13(5) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**

Marginal Citations

M14 1954 c. 56

M15 1954 c. 56.

Miscellaneous

14 Housing the homeless. **E+W**

- (1) The ^{M16}Housing Act 1985 shall be amended in accordance with the following provisions.
- (2) In section 58 (definition of homelessness) after subsection (2) there shall be inserted the following subsections—
 - “(2A) A person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him to continue to occupy.
 - (2B) Regard may be had, in determining whether it would be reasonable for a person to continue to occupy accommodation, to the general circumstances prevailing in relation to housing in the district of the local housing authority to whom he has applied for accommodation or for assistance in obtaining accommodation.”.
- (3) For section 69(1) (provisions supplementary to ss. 63, 65 and 68) there shall be substituted the following subsection—
 - “(1) A local housing authority may perform any duty under section 65 or 68 (duties to persons found to be homeless) to secure that accommodation becomes available for the occupation of a person—
 - (a) by making available suitable accommodation held by them under Part II (provision of housing) or any enactment, or
 - (b) by securing that he obtains suitable accommodation from some other person, or
 - (c) by giving him such advice and assistance as will secure that he obtains suitable accommodation from some other person,

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and in determining whether accommodation is suitable they shall have regard to Part IX (slum clearance), X (overcrowding) and XI (houses in multiple occupation) of this Act.”.

Marginal Citations

M16 1985 c. 68.

[^{F8}15 Grants for improvement or repair of common parts. **E+W**

Part XV of the ^{M17}Housing Act 1985 (grants for works of improvement, repair and conversion) is amended in accordance with Schedule 3 so as to provide for a new form of grant towards the costs of works required for the improvement or repair of the common parts of a building containing one or more flats.]

Textual Amendments

F8 S. 15 repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 194(4), 195(2), Sch. 12 Pt. II

Marginal Citations

M17 1985 c. 68.

16 Housing management : financial assistance etc. **E+W**

In Part XIII of the Housing Act 1985 (general financial provisions), after section 429 insert—

“429A Housing management : financial assistance etc.

(1) The Secretary of State may, with the financial consent of the Treasury, give financial assistance—

- (a) to persons managing public sector or former public sector housing, and
- (b) to persons seeking to facilitate or encourage improvements in, or providing services in connection with, the management of such housing ;

and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.

(2) For this purpose—

- (a) “public sector housing” means housing accommodation in which an authority or body within section 80 (the landlord condition for secure tenancies) has an interest by virtue of which it receives a rack-rent, or would do so if the premises were let at a rack-rent; and
- (b) “former public sector housing” means housing accommodation in which such an authority, or a predecessor of such an authority or an authority abolished by the Local Government Act 1985 formerly had such an interest.

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- (3) The Secretary of State may, with the consent of the Treasury, give financial assistance—
 - (a) to persons providing educational or training course in housing management,
 - (b) to persons providing services for those providing such courses, and
 - (c) to persons providing financial or other assistance for those attending such courses ;and may, with the like consent, make payments otherwise than by way of financial assistance in pursuance of arrangements made with any such person.
- (4) Financial assistance given by the Secretary of State under subsection (1) or (3) may be given in any form, and may in particular be given by way of grants, loans or guarantees or by incurring expenditure for the benefit of the person assisted ; but the Secretary of State shall not in giving such assistance purchase loan or share capital in a company.
- (5) Financial assistance may be given and other payments made on such terms as the Secretary of State, with the consent of the Treasury, considers appropriate ; and the terms may, in particular, include provision as to the circumstances in which the assistance or other payment must be repaid or otherwise made good to the Secretary of State and the manner in which that is to be done.
- (6) A person receiving financial assistance under this section shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.”.

17 Matters to be taken into account in determining fair rent. **E+W**

- (1) Section 70 of the ^{M18}Rent Act 1977 (determination of fair rent) is amended as follows.
- (2) In subsection (1) (matters to be taken into account), omit the word “and” before paragraph (b) and after that paragraph insert—
 - “, and
 - (c) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”.
- (3) After subsection (4) insert—

“(4A) In this section “premium” has the same meaning as in Part IX of this Act, and “sum in the nature of a premium” means—

 - (a) any such loan as is mentioned in section 119 or 120 of this Act,
 - (b) any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and
 - (c) any such advance payment of rent as is mentioned in section 126 of this Act.”.
- (4) The above amendments apply to every decision made by a rent officer or rent assessment committee after the commencement of this section, notwithstanding that the application was made before commencement or, in the case of a decision of a rent assessment committee, that the rent officer’s decision was made before commencement.

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Marginal Citations

M18 1977 c. 42.

18 Further provisions with respect to shared ownership leases. **E+W**

The provisions of Schedule 4 have effect to exclude certain shared ownership leases from the operation of the provisions of—

- (a) the ^{M19}Rent Act 1977 and the ^{M20}Rent (Agriculture) Act 1976, and
- (b) Part I of the ^{M21}Leasehold Reform Act 1967 (right of long leaseholder to enfranchisement or extension of lease).

Marginal Citations

M19 1977 c. 42.

M20 1976 c. 80.

M21 1967 c. 88.

19 ^{F9} **E+W+S**

Textual Amendments

F9 S. 19 repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**

[^{F10}20 Disposal of dwellings in new towns. **E+W**

- (1) Part III of the ^{M22}New Towns Act 1981 (transfer of new town housing to district councils), is amended as follows.
- (2) After section 57 insert—

“ Savings for other powers of disposal.

The provisions of this Part as to the transfer of dwellings in a new town to a district council shall not be construed as restricting—

- (a) the power of the Commission under section 36 above,
- (b) The power of the development corporation under section 64 below, or
- (c) the power of the Development Board for Rural Wales under section 4 of the development of Rural Wales Act 1976,

to dispose of such dwellings to any person.”.

- (3) The following provisions (which relate to the initiation of consultations with a view to the transfer of new town housing to a district council) are repealed—
 - section 43(3) and (4),
 - section 49(b) and (c).]

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Textual Amendments

F10 S. 20 repealed (*prosp.*) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 194(4), 195(2), **Sch. 12 Pt. II**

Marginal Citations

M22 1981 c. 64.

21 Effect of resolutions relating to housing action area or general improvement area. **E+W**

- (1) In Part VIII of the ^{M23}Housing Act 1985 (area improvement) before section 260, under the heading “Supplementary provisions” insert—

“259A Effect of resolutions relating to housing action area or general improvement area.

- (1) A resolution of a local housing authority passed after the commencement of this section—
- declaring an area to be a housing action area, excluding land from a housing action area or declaring that an area shall cease to be a housing action area, or
 - declaring an area to be a general improvement area, excluding land from a general improvement area or declaring that an area shall cease to be a general improvement area,
- has effect, subject to subsection (2), from the day on which the resolution is passed.
- (2) A resolution declaring an area to be a general improvement area may be expressed to have effect from a future date, not later than four weeks after the passing of the resolution, on which the whole or part of that area will cease to be, or be included in, a housing action area.

259B Effect of certain resolutions passed before commencement of s. 259A.

- (1) Where before the commencement of section 259A a local housing authority passed a resolution of any of the descriptions mentioned in the section expressed to have effect from a date after that on which it was passed—
- anything done before the commencement of this section in reliance on the view that the resolution was invalid shall have effect as if the resolution had not been passed, but
 - otherwise, the resolution shall be taken for all purposes, both before and after the commencement of this section, to have been validly passed and to have had effect from the date on which it was expressed to have had effect ;
- subject to the following provisions.
- (2) A person shall not be proceeded against in respect of anything done or omitted before the commencement of this section which would not have been an offence if the resolution had not been passed.

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- (3) Where the resolution declared a housing action area or general improvement area and, before the commencement of this section, the local housing authority passed a further resolution making the like declaration in relation to the whole or part of the area to which the first resolution then related—
- (a) both resolutions are effective, notwithstanding that they relate in whole or in part to the same area ;
 - (b) the area covered by both resolutions is a housing action area or general improvement area by virtue of the joint effect of the two resolutions, and in the case of a housing action area shall continue to be such an area (subject to the provisions of this Part) until the end of the period of five years beginning with the date on which the second resolution was passed ;
 - (c) it is immaterial whether steps taken before the commencement of this section were taken in reliance on the first resolution or the second, but steps taken in reliance on the first shall not be proceeded with to the extent that they have been superseded by, or are inconsistent with, steps taken in reliance on the second ; and
 - (d) the areas declared by the two resolutions may be treated as one for the purposes of section 245(3) or 259(3) (limit on aggregate expenditure qualifying for contributions by Secretary of State).
- (4) The provisions of subsection (3) do not affect the powers of the Secretary of State under section 241(2)(a) and (b) (power to overrule declaration of housing action area or exclude land from area) and, so far as they relate to the duration of a housing action area, have effect subject to section 241(4) (effect of Secretary of State’s decision in such a case).”.
- (2) In consequence of the above amendment, Part VIII of the ^{M24}Housing Act 1985 is further amended as follows—
- (a) in section 239(4) (duration of housing action area), omit “beginning with the date on which the resolution is passed” ;
 - (b) in section 240(1) (steps to be taken after declaration of housing action area) omit “passing a resolution” ;
 - (c) in section 242(2) (incorporation into housing action area of land comprised in general improvement area), for “the resolution is passed declaring such an area” substitute “the area is declared” ;
 - (d) in section 250(1) (exclusion of land from, or termination of, housing action area), omit “on the date on which the resolution is passed” ;
 - (e) in section 257 (duty to publish information) for “have declared” substitute “have passed a resolution declaring” and for “assistance available” substitute “assistance which is or will be available” ;
 - (f) in section 258(1)(b) (resolution terminating general improvement area), for “an area to be no longer” substitute “that an area shall cease to be” ;
 - (g) in section 258(2) (effect of resolution excluding land from or terminating general improvement area) for “the date on which the resolution takes effect” substitute “the date on which the exclusion or cessation takes effect” and for “the exclusion or cessation” substitute “the resolution”.

Marginal Citations

M23 1985 c. 68

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

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M24 1985 c. 68.

22 Agreements with certain housing bodies exempt from Consumer Credit Act 1974. U.K.

- (1) Section 16 of the ^{M25}Consumer Credit Act 1974 (exempt agreements) is amended as follows.
- (2) In subsection (1) (which enables orders to be made exempting agreements with certain descriptions of creditor), after paragraph (f) insert—
 - “(ff) a body corporate named or specifically referred to in an order made under—
 - section 156(4), 444(1) or 447(2)(a) of the Housing Act 1985,
 - section 2 of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 or section 31 of the Tenant’s Rights, &c. (Scotland) Act 1980, or
 - Article 154(1)(a) or 156AA of the Housing (Northern Ireland) Order 1981 or Article 10(6A) of the Housing (Northern Ireland) Order 1983; or”;and in subsection (3) (requirements as to consultation), in paragraph (d) (consultation with responsible Minister), for “or (f)” substitute “, (f) or (ff)”.
- (3) After subsection (6) insert—
 - “(6A) This Act does not regulate a consumer credit agreement where the creditor is a housing authority and the agreement is secured by a land mortgage of a dwelling.
 - (6B) In subsection (6A) “housing authority” means—
 - (a) as regards England and Wales, an authority or body within section 80(1) of the Housing Act 1985 (the landlord condition for secure tenancies), other than a housing association or a housing trust which is a charity;
 - (b) as regards Scotland, a development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act 1968, the Scottish Special Housing Association or the Housing Corporation;
 - (c) as regards Northern Ireland, the Northern Ireland Housing Executive.”.
- (4) The above amendments apply to agreements made after the commencement of this section.

Marginal Citations

M25 1974 c. 37.

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23 Determination of price for leasehold enfranchisement. **E+W**

- (1) In section 9(1A) of the ^{M26}Leasehold Reform Act 1967 (determination of price payable for enfranchisement of higher value houses), in paragraph (a) (assumption that vendor is selling subject to existing tenancy) after “no right to acquire the freehold” insert “or an extended lease and, where the tenancy has been extended under this Part of this Act, that the tenancy will terminate on the original term date.”.
- (2) In section 23(5) of the Leasehold Reform Act 1967 (provisions as to tenancy granted in satisfaction of tenant’s rights under Part I), in paragraph (b) (provisions which apply as if the tenancy were granted by way of extension) at the beginning insert “section 9(1) and (1A) above.”.
- (3) The above amendments do not apply—
 - (a) where the price for enfranchisement has been determined, by agreement or otherwise, before the commencement of this section; or
 - (b) where the notice under section 8 of the Leasehold Reform Act 1967 (notice of desire to have the freehold) was given before the passing of this Act; or
 - (c) where notice under section 14 of that Act (notice of desire to have extended lease) was given before 5th March 1986.

Marginal Citations

M26 1967 c. 88.

24 Minor and consequential amendments; repeals. **E+W**

- (1) The enactments relating to housing are amended in accordance with Part I of Schedule 5 with respect to the following matters—
 - (a) the effect of a covenant for repayment of discount given on the disposal of a dwelling-house;
 - (b) the acquisition by an authority or body within section 80 of the ^{M27}Housing Act 1985 (the landlord condition for secure tenancies) of a dwelling-house subject to a statutory tenancy;
 - (c) the contents of a landlord’s notice under section 125 of that Act (notice of terms of exercise of right to buy);
 - (d) the steps to be taken where there is a change of landlord in the course of exercise of the right to buy;
 - (e) the deferment of completion in pursuance of the right to buy;
 - (f) the maximum penalty for voting in contravention of section 618(3) of the ^{M28}Housing Act 1985 (member of Common Council or committee voting on matter in which he is interested);
 - (g) the withholding of consent to the assignment by way of exchange of a secure tenancy of a dwelling-house managed by a certain description of housing association;
 - (h) grants for affording tax relief to housing associations;
 - (i) the recovery of service charges in respect of the cost of grant-aided works;
 - (j) miscellaneous corrections.
- (2) Part II of Schedule 5 contains amendments consequential on the provisions of this Part.

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(3) The enactments specified in Part I of Schedule 12 are repealed to the extent specified.

Commencement Information

I2 S. 24 partly in force; s. 24(1)(j) in force at Royal Assent see s. 57(1); for commencement orders prior to 1.2.1991 see s. 57(2); s. 24(2) in force in so far as it relates to specified provisions of Sch. 5 at 17.8.1992 by S.I. 1992/1753, art. 2(2).

Marginal Citations

M27 1985 c. 68.

M28 1985 c. 68

PART II E+W+S

SIMPLIFIED PLANNING ZONES

25 **F11 E+W**

Textual Amendments

F11 Ss. 25, 30–34, 41 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

Scotland

26 **Simplified planning zones in Scotland. S**

(1) In Part III of the ^{M29}Town and Country Planning (Scotland) Act 1972 (general planning control), after section 21 insert—

“ Simplified planning zone schemes

21A Simplified planning zones.

- (1) A simplified planning zone is an area planning in respect of which a simplified planning zone scheme is in force.
- (2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission for development specified in the scheme or for development of any class so specified.
- (3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.
- (4) Every planning authority—

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- (a) shall consider, as soon as practicable after this section comes into operation, the question for which part or parts of their district a simplified planning zone scheme is desirable, and shall thereafter keep that question under review; and
 - (b) shall prepare a scheme for any such part for which they decide, as a result of their original consideration or of any such review, that it is desirable to do so.
- (5) The provisions of Schedule 6A to this Act have effect with respect to the making and alteration of simplified planning zone schemes and other related matters.

21B Simplified planning zone schemes : conditions and limitations on planning permission.

- (1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—
- (a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and
 - (b) conditions or limitations requiring the consent, agreement or approval of the planning authority in relation to particular descriptions of permitted development ;
- and different conditions or limitations may be specified for different cases or classes of case.
- (2) Nothing in a simplified planning zone scheme shall affect the right of any person—
- (a) to do anything not amounting to development, or
 - (b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme ;
- and no limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.

21C Duration of simplified planning zone scheme.

- (1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of ten years beginning with that date.
- (2) Upon the scheme's ceasing to have effect planning permission under the scheme shall also cease to have effect except in a case where the development authorised by it has been begun.
- (3) The provisions of section 41(2) to (6) of this Act (which provide for the termination of planning permission if the completion of development is unreasonably delayed) apply to planning permission under a simplified planning zone scheme where development has been begun but not completed by the time the area ceases to be a simplified planning zone.

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- (4) The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this section when development shall be taken to be begun.

21D Alteration of simplified planning scheme.

- (1) The adoption or approval of alterations to a simplified planning zone scheme has effect as follows.
- (2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land or such part of it as is specified in the scheme planning permission for development so specified or of any class so specified.
- (3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.
- (4) The adoption or approval of alterations providing for the withdrawal or relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions forthwith.
- (5) The adoption or approval of alterations providing for—
- (a) the exclusion of land from the simplified planning zone,
 - (b) the withdrawal of planning permission, or
 - (c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,
- has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of twelve months beginning with the date of the adoption or approval.
- (6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.

21E Exclusion of certain descriptions of land or development.

- (1) The following descriptions of land may not be included in a simplified planning zone—
- (a) land in a conservation area ;
 - (b) land in a National Scenic Area ;
 - (c) land identified in the development plan for the area as part of a green belt ;
 - (d) land in respect of which a notification or order is in force under section 28 or 29 of the Wildlife and Countryside Act 1981 (areas of special scientific interest).
- (2) Where land included in a simplified planning zone becomes land of such a description, subsection (1) does not have effect to exclude it from the zone.

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- (3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—
- (a) in relation to an area of land specified in the order or to areas of land of a description so specified, or
 - (b) for development of a description specified in the order.
- (4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.”.

- (2) After Schedule 6 to the ^{M30}Town and Country Planning (Scotland) Act 1972 insert as Schedule 6A the Schedule set out in Part III of Schedule 6 to this Act which contains provision with respect to the making and alteration of simplified planning zone schemes and other related matters.
- (3) The ^{M31}Town and Country Planning (Scotland) Act 1972 also has effect subject to the consequential amendments specified in Part IV of Schedule 6 to this Act.

Marginal Citations

- M29** 1972 c. 52.
M30 1972 c. 52.
M31 1972 c. 52.

PART III E+W+S

FINANCIAL ASSISTANCE FOR URBAN REGENERATION

27 **Power to give assistance.** E+W+S

The Secretary of State may, with the consent of the Treasury, give financial assistance to any person in respect of qualifying expenditure incurred in connection with activities contributing to the regeneration of an urban area by bringing land and buildings into effective use, creating an attractive environment, providing employment for people who live in the area or ensuring that housing and social facilities are available to encourage people to live and work in the area.

- (2) Expenditure incurred in connection with any of the following qualifies for assistance—
- (a) the acquisition of land or buildings ;
 - (b) the reclamation, improvement or refurbishment of land or buildings ;
 - (c) the development or redevelopment of land, including the conversion or demolition of existing buildings ;
 - (d) the equipment or fitting out of buildings or land ;
 - (e) the provisions of means of access, services or other facilities for buildings or land ;

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(f) environmental improvements.

28 Forms of assistance. E+W+S

- (1) Financial assistance under section 27 may be given in any form.
- (2) Assistance may, in particular, be given by way of—
 - (a) grants,
 - (b) loans,
 - (c) guarantees, or
 - (d) incurring expenditure for the benefit of the person assisted.
- (3) The Secretary of State shall not in giving financial assistance under section 27 purchase loan or share capital in a company.

29 Terms on which assistance is given. E+W+S

- (1) Financial assistance under section 27 may be given on such terms as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (2) The terms may, in particular, include provision as to—
 - (a) circumstances in which the assistance must be repaid, or otherwise made good, to the Secretary of State, and the manner in which that is to be done ; or
 - (b) circumstances in which the Secretary of State is entitled to recover the proceeds of part of the proceeds of any disposal of land or buildings in respect of which assistance was provided.
- (3) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.

PART IV E+W+S

HAZARDOUS SUBSTANCES

30–34 F12 E+W

Textual Amendments

F12 Ss. 25, 30–34, 41 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

Scotland

35 Hazardous substances— Scotland. S

The following shall be inserted after section 56AA of the ^{M32}Town and Country Planning (Scotland) Act 1972—

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“ Hazardous substances

56A Hazardous substances.

- (1) Subject to subsection (2) of this section and to section 56B below, it shall be the duty of the planning authority to control hazardous substances in accordance with the provisions of this Act.
- (2) An urban development corporation shall control hazardous substances in their area if they are the planning authority in relation to an kinds of development.

56B Hazardous substances— statutory undertakers.

- (1) The appropriate Minister shall be the planning authority in respect of hazardous substances in relation to land to which this section applies.
- (2) This section applies—
 - (a) to operational land of statutory undertakers ;
 - (b) to land in which statutory undertakers hold, or propose to acquire, an interest with a view to the land being used as operational land.
- (3) For the purposes of this section any land to which this subsection applies but which is not operational land of statutory undertakers authorised to carry on a harbour shall be treated as if it were such operational land.
- (4) Subsection (3) above applies—
 - (a) to a wharf ; and
 - (b) to harbour land,
 as defined in the Harbours Act 1964.
- (5) Any question whether subsection (3) above applies to land shall be determined by the Secretary of State and the Minister who is the appropriate Minister in relation to operational land of statutory undertakers who are authorised to carry on harbour undertakings.

56C Requirement of hazardous substances consent.

- (1) Subject to the provisions of this Part of this Act, the presence of a hazardous substance on, over or under land requires the consent of the planning authority (in this Act referred to as “hazardous substances consent”) unless the aggregate quantity of the substance—
 - (a) on, under or over the land ;
 - (b) on, under or over other land which is within 500 metres of it and controlled by the same person ; or
 - (c) in or on a structure controlled by the same person any part of which is within 500 metres of it,
 is less than the controlled quantity.
- (2) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless it is unloaded.

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- (3) The Secretary of State—
- (a) shall by regulations specify—
 - (i) the substances that are hazardous substances for the purposes of this Act ;
 - (ii) the quantity which is to be the controlled quantity of any such substance ;
 - (b) may by regulations provide that hazardous substances consent is not required or is only required—
 - (i) in relation to land of prescribed descriptions ;
 - (ii) by reason of the presence of hazardous substances in prescribed circumstances ;
 - (c) may by regulations provide that, except in such circumstances as may be prescribed, all hazardous substances falling within a group specified in the regulations are to be treated as a single substance for the purposes of this Act.
- (4) Regulations which—
- (a) are made by virtue of sub-paragraph (i) of subsection (3)(a) above ; or
 - (b) are made by virtue of sub-paragraph (ii) of that paragraph and reduce the controlled quantity of a substance.
- may make such transitional provision as appears to the Secretary of State to be appropriate.
- (5) The power to make such transitional provision includes, without prejudice to its generality, power to apply section 38 of the Housing and Planning Act 1986 subject to such modifications as appear to the Secretary of State to be appropriate.
- (6) Regulations under this section may make different provision for different cases or descriptions of cases.
- (7) Bodies corporate which are inter-connected for the purposes of the Fair Trading Act 1973 are to be treated as being one person for the purposes of this section and sections 56D to 56L and 97B below.

56D Applications for hazardous substances consent.

- (1) Provision may be made by regulations with respect to—
- (a) the form and manner in which applications for hazardous substances consent are to be made ;
 - (b) the particulars which they are to contain and the evidence by which they are to be verified ;
 - (c) the manner in which they are to be advertised ; and
 - (d) the time within which they are to be dealt with.
- (2) Regulations may provide that an application for hazardous substances consent, or an appeal against the refusal of such an application or against the imposition of a condition on such a consent, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act and any such regulations may—

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- (a) include requirements corresponding to those mentioned in sections 23(1), 24(2) and (4) and 26(3) of this Act ; and
 - (b) make provision as to who is to be treated as the owner of land for the purposes of any provision of the regulations.
- (3) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (2) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Regulations—
- (a) may require an applicant for hazardous substances consent or the planning authority or both to give publicity to an application for hazardous substances consent in such manner as may be prescribed ;
 - (b) may require the planning authority to conduct appropriate consultations before determining applications for hazardous substances consent ;
 - (c) may provide for the manner in which such a consultation is to be carried out and the time within which—
 - (i) such a consultation ;
 - (ii) any stage in such a consultation,
 is to be completed ;
 - (d) may require the planning authority to determine applications for hazardous substances consent within such time as may be prescribed ;
 - (e) may require the planning authority to give prescribed persons or bodies prescribed information about applications for hazardous substances consent including information as to the manner in which such applications have been dealt with.
- (5) In subsection (4) above “appropriate consultations” means—
- (a) consultations—
 - (i) in the case of a planning authority other than the appropriate Minister, with the Health and Safety Executive ; and
 - (ii) in the case of the appropriate Minister, with the Health and Safety Commission, and
 - (b) consultations with such persons or bodies as may be prescribed.
- (6) Regulations under this section may make different provision for different cases or descriptions of cases.

56E Determination of applications for hazardous substances consent.

- (1) Subject to the following provisions of this Act, where an application is made to a planning authority for hazardous substances consent, that authority, in dealing with the application, shall have regard to any material considerations, and—
- (a) may grant hazardous substances consent, either unconditionally or subject to such conditions as they think fit ; or
 - (b) may refuse hazardous substances consent.

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- (2) Without prejudice to the generality of subsection (1) above, in dealing with an application the authority shall have regard—
- (a) to any current or contemplated use of the land to which the application relates ;
 - (b) to the way in which land in the vicinity is being used or is likely to be used ;
 - (c) to any planning permission that has been granted for development of land in the vicinity ;
 - (d) to the provisions of the development plan ; and
 - (e) to any advice which the Health and Safety Executive or Health and Safety Commission have given following consultations in pursuance of regulations under section 56D(4) above.
- (3) If an application relates to more than one hazardous substance, the authority may make different determinations in relation to each.
- (4) It shall be the duty of a planning authority, when granting hazardous substances consent, to include in that consent—
- (a) a description of the land to which the consent relates ;
 - (b) a description of the hazardous substance or substances to which it relates ; and
 - (c) in respect of each hazardous substance to which it relates, a statement of the maximum amount permitted by the consent to be present at any one time and of all conditions relating to that substance subject to which the consent is granted.
- (5) Without prejudice to the generality of subsection (1) above, a planning authority may grant hazardous substances consent subject to conditions with respect to any of the following—
- (a) how and where any hazardous substance to which the consent relates is to be kept or used ;
 - (b) times between which any such substance may be present ;
 - (c) the permanent removal of any such substance—
 - (i) on or before a date specified in the consent ; or
 - (ii) before the end of a period specified in it and commencing on the date on which it is granted ;
 - (d) the consent being conditional on the commencement or partial or complete execution of development on the land which is authorised by a specified planning permission,
- but a planning authority other than the appropriate Minister may only grant consent subject to conditions as to how a hazardous substance is to be kept or used if the conditions are conditions to which the Health and Safety Executive have advised the authority that any consent they might grant should be subject.

56F References to regional planning authority and Secretary of State and appeals.

- (1) Subject to subsections (2) and (3) below, sections 32 to 34 of this Act and section 179 (reference of applications to regional planning authority) of the Local Government (Scotland) Act 1973 shall have effect in relation

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to applications for hazardous substances consent and to decisions on such applications as though they were applications for planning permission.

- (2) In the application of sections 32 to 34 of this Act to hazardous substances consent—
- (a) section 32(4) and section 33(5) and (7) shall be omitted ;
 - (b) the words “and in such manner as may be prescribed” shall be substituted for the words in section 33(2) following “time” ;
 - (c) in section 34, the words “by the development order” shall be omitted from both places where they occur.
- (3) Subsections (1) and (2) above do not have effect in relation to applications for hazardous substances consent relating to land to which section 56B of this Act applies or to decisions on such applications.

56G Deemed hazardous substances consent by virtue of authorisation of government department.

- (1) Where—
- (a) the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority ; and
 - (b) the development would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent,
- the department may, on granting that authorisation, also direct that hazardous substances consent for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions.
- (2) The department shall consult the Health and Safety Commission before issuing any such directions.
- (3) The provisions of this Act (except Parts VII and XII shall apply in relation to any hazardous substances consent deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act, as applied by section 56F of this Act.
- (4) The reference in subsection (1) above to the authorisation of a government department is to be construed in accordance with section 37(3) of this Act.

56H Grants of hazardous substances consent without compliance with conditions previously attached.

- (1) This section applies to an application for hazardous substances consent without a condition subject to which a previous hazardous substances consent was granted or is deemed to have been granted.
- (2) On such an application the planning authority shall consider only the question of the conditions subject to which hazardous substances consent should be granted, and—
- (a) if they determine that hazardous substances consent should be granted subject to conditions differing from those subject to which the previous

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- consent was granted, or that it should be granted unconditionally, they shall grant hazardous substances consent accordingly ; and
- (b) if they determine that hazardous substances consent should be granted subject to the same conditions as those subject to which the previous consent was granted, they shall refuse the application.
- (3) Where—
- (a) hazardous substances consent has been granted or is deemed to have been granted for the presence on, over or under land of more than one hazardous substance ; and
- (b) an application under this section does not relate to all the substances, the planning authority shall only have regard to any condition relating to a substance to which the application does not relate to the extent that it has implications for a substance to which the application does relate.
- (4) Where—
- (a) more than one hazardous substances consent has been granted or is deemed to have been granted in respect of the same land ; and
- (b) an application under this section does not relate to all the consents, the planning authority shall only have regard to any consent to which the application does not relate to the extent that it has implications for a consent to which the application does relate.
- (5) Regulations may make provision in relation to applications under this section corresponding to any provision that may be made by regulations under section 56D of this Act in relation to applications for hazardous substances consent.

56J Power to revoke or modify hazardous substance consent.

- (1) If it appears to the planning authority that—
- (a) there has been a material change of use of land to which a hazardous substances consent relates ; or
- (b) planning permission has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission relates has been commenced,
- they may by order—
- (i) if the consent relates only to one substance, revoke it ;
- (ii) if it relates to more than one, revoke it or revoke it so far as it relates to a specified substance.
- (2) The planning authority may by order—
- (a) revoke a hazardous substances consent which relates to only one substance if it appears to them that that substance has not for at least 5 years been present on, under or over the land to which the consent relates in a quantity equal to or exceeding the controlled quantity ; and
- (b) revoke a hazardous substances consent which relates to a number of substances if it appears to them that none of those substances has for at least 5 years been so present.

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- (3) The planning authority may by order revoke a hazardous substances consent or modify it to such extent as they consider expedient if it appears to them, having regard to any material consideration, that it is expedient to revoke or modify it.
- (4) An order under this section shall specify the grounds on which it is being made.
- (5) An order under this section, other than an order relating to land to which section 56B of this Act applies, shall not take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modification as he considers expedient.
- (6) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, the authority shall serve notice of the order on—
 - (a) any person who is an owner, occupier or lessee of the whole or any part of the land to which the order relates ; and
 - (b) any other person who in their opinion will be affected by the order ;
 and if within the period specified in that behalf in the notice (not being less than 28 days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.
- (7) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under subsection (6) of this section.
- (8) Section 159 of this Act shall have effect where a hazardous substances consent is revoked or modified by an order made in the exercise of the power conferred by subsection (3) of this section as it has effect where an order is made under section 49 of this Act.

56K Provisions as to effect of hazardous substances consent and change of control of land.

- (1) Without prejudice to the provisions of this Part of this Act, any hazardous substances consent shall (except in so far as it otherwise provides) enure for the benefit of the land to which it relates and of all persons for the time being interested in the land.
- (2) A hazardous substances consent is revoked if there is a change in the person in control of part of the land to which it relates unless an application for the continuation of the consent has previously been made to the planning authority.
- (3) Regulations may make provision in relation to applications under subsection (2) above corresponding to any provision that may be made by regulations under section 56D of this Act in relation to applications for hazardous substances consent.
- (4) When such application is made, the authority, having regard to any material consideration—
 - (a) may modify the consent in any way they consider appropriate ; or
 - (b) may revoke it.

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- (5) Without prejudice to the generality of subsection (4) above, in dealing with an application the authority shall have regard—
- (a) to the matters to which a planning authority are required to have regard by section 56E(2)(a) to (d) above; and
 - (b) to any advice which the Health and Safety Executive or Health and Safety Commission have given following consultations in pursuance of regulations under subsection (3) above.
- (6) If an application relates to more than one consent, the authority may make different determinations in relation to each.
- (7) If a consent relates to more than one hazardous substance, the authority may make different determinations in relation to each.
- (8) It shall be the duty of a planning authority, when continuing hazardous substances consent, to attach to the consent one of the following—
- (a) a statement that is unchanged in relation to the matters included in it by virtue of section 56E(4) above ;
 - (b) a statement of any change in respect of those matters.
- (9) The modifications which a planning authority may make by virtue of subsection (4)(a) above include, without prejudice to the generality of that paragraph, the making of the consent subject to conditions with respect to any of the matters mentioned in section 56E(5) above.
- (10) Subject to subsection (11) below, sections 32 to 34 of this Act and section 179 of the Local Government (Scotland) Act 1973 shall have effect in relation to applications under subsection (2) above and to decisions on such applications as though they were applications for planning permission.
- (11) In the application of sections 32 to 34 of this Act by virtue of subsection (10) above—
- (a) section 32(4) and section 33(5) and (7) shall be omitted ;
 - (b) the words “and in such manner as may be prescribed” shall be substituted for the words in section 33 (2) following “time” ;
 - (c) in section 34—
 - (i) the words “by the development order” shall be omitted from the first place where they occur; and
 - (ii) the words “the application shall be deemed to have been granted” shall be substituted for the words following paragraph (b).
- (12) Where the authority modify or revoke the consent, they shall pay to the person in control of the whole of the land before the change compensation in respect of any loss or damage sustained by him and directly attributable to the modification or revocation.

56L Offences.

- (1) Subject to this Part of this Act, if there is a contravention of hazardous substances control, the appropriate person shall be guilty of an offence.
- (2) There is a contravention of hazardous substances control—

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- (a) if a quantity of a hazardous substance equal to or exceeding the controlled quantity is or has been present on, under or over land and either—
 - (i) there is no hazardous substances consent for the presence of the substance ; or
 - (ii) there is hazardous substances consent for its presence but the quantity present exceeds the maximum quantity permitted by the consent ;
 - (b) if there is or has been a failure to comply with a condition subject to which a hazardous substances consent was granted.
- (3) In subsection (1) above “the appropriate person” means—
- (a) in relation to a contravention falling within paragraph (a) of subsection (2) above—
 - (i) any person knowingly causing the substance to be present on, over or under the land ;
 - (ii) any person allowing it to be so present ; and
 - (b) in relation to a contravention falling within paragraph (a) or (b) of that subsection, the occupier of the land.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding, the statutory maximum ; or
 - (b) on conviction on indictment, to a fine,
- and if the contravention is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £200 for each day on which it continues or on conviction on indictment to a fine.
- (5) In any proceedings for an offence under this section it shall be a defence for the accused to prove—
- (a) that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence ; or
 - (b) that commission of the offence could be avoided only by the taking of action amounting to a breach of a statutory duty.
- (6) In any proceedings for an offence consisting of a contravention falling within subsection (2)(a) above, it shall be a defence for the accused to prove that at the time of the alleged commission of the offence he did not know, and had no reason to believe—
- (a) if the case falls within paragraph (a)(i)—
 - (i) that the substance was present ; or
 - (ii) that it was present in a quantity equal to or exceeding the controlled quantity ;
 - (b) if the case falls within paragraph (a)(ii), that the substance was present in a quantity exceeding the maximum quantity permitted by the consent.
- (7) In any proceedings for an offence consisting of a contravention falling within subsection (2)(b) above, it shall be a defence for the accused to prove that he did not know, and had no reason to believe, that he was failing to comply with a condition subject to which hazardous substances consent had been granted.

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56M Emergencies.

- (1) If it appears to the Secretary of State—
 - (a) either—
 - (i) that the community or part of it is being or is likely to be deprived of an essential service or commodity ; or
 - (ii) that there is or is likely to be a shortage of such a service or commodity affecting the community or part of it ; and
 - (b) that the presence of a hazardous substance on, over or under land specified in the direction in circumstances such that hazardous substances consent would be required, is necessary for the effective provision of that service or commodity,he may direct that, subject to such conditions or exceptions as he thinks fit, the presence of the substance on, over or under the land is not to constitute a contravention of hazardous substances control so long as the direction remains in force.
- (2) A direction under this section—
 - (a) may be withdrawn at any time ;
 - (b) shall in any case cease to have effect at the end of the period of three months beginning with the day on which it was given, but without prejudice to the Secretary of State’s power to give a further direction.
- (3) Subject to subsection (4) below, the Secretary of State shall send a copy of any such direction to the planning authority in relation to the land.
- (4) Where the land is land to which section 56B of this Act applies, the Secretary of State shall send the copy to the authority which would be the planning authority in relation to that land but for that section.

56N Registers, etc.

- (1) Every planning authority shall keep, in such manner as may be prescribed, a register containing such information as may be so prescribed with respect—
 - (a) to applications for hazardous substances consent—
 - (i) made to that authority, or
 - (ii) made to the appropriate Minister with respect to land in relation to which, but for section 56B of this Act, that authority would be the planning authority ;and including information as to the manner in which such applications have been dealt with ;
 - (b) to hazardous substances consent deemed to be granted under section 38 of the Housing and Planning Act 1986 with respect to land in relation to which that authority is or but for section 56B of this Act would be, the planning authority ;
 - (c) to revocations or modifications of hazardous substances consent granted with respect to such land ; and
 - (d) to directions under section 56M above sent to the authority by the Secretary of State.

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- (2) Where with respect to any land the appropriate Minister exercises any of the functions of a planning authority for the purposes of hazardous substances control he shall send to the authority which, but for section 56B of this Act, would be the planning authority for those purposes in relation to that land any such information as appears to him to be required by them for the purposes of maintaining a register under this section.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

56O Health and safety requirements.

- (1) Nothing in—
 - (a) any hazardous substances consent granted or deemed to be granted under—
 - (i) the preceding provisions of this Act ; or
 - (ii) section 38 of the Housing and Planning Act 1986; or
 - (b) any hazardous substances contravention notice issued under section 97B of this Act,

shall require or allow anything to be done in contravention of any of the relevant statutory provisions or any prohibition notice or improvement notice served under or by virtue of any of those provisions ; and to the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.

- (2) Where it appears to a planning authority who have granted or are deemed to have granted a hazardous substances consent or who have issued a hazardous substances contravention notice that the consent or notice or part of it is rendered void by subsection (1) above, the authority shall, as soon as is reasonably practicable, consult the appropriate body with regard to the matter.
- (3) If the appropriate body advise the authority that the consent or notice is rendered wholly void, the authority shall revoke it.
- (4) If they advise that part of the consent or notice is rendered void, the authority shall so modify it as to render it wholly operative.
- (5) In this section—

“the appropriate body” means—

- (a) in relation to a planning authority other than the appropriate Minister, the Health and Safety Executive; and
- (b) in relation to the appropriate Minister, the Health and Safety Commission ; and

“relevant statutory provisions”, “improvement notice” and “prohibition notice” have the same meanings as in Part I of the Health and Safety at Work etc. Act 1974.”.

Commencement Information

- I3** S. 35 wholly in force; s. 35 not in force at Royal Assent see s. 57(2); s. 35 in force for specified purposes at 18.2.1993 and wholly in force at 1.5.1993 by S.I. 1993/273, arts. 3, 5(1).

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Marginal Citations

M32 1972 c. 52.

36 Hazardous substances contravention notices. **S**

The following shall be inserted after section 97A of the ^{M33}Town and Country Planning (Scotland) Act 1972—

“ Hazardous substances

97B Power to issue hazardous substances contravention notice.

- (1) Subject to subsection (2) below, where it appears to the planning authority that there is or has been a contravention of hazardous substances control they may issue a hazardous substances contravention notice if they consider it expedient to do so having regard to any material consideration.
- (2) A planning authority shall not issue a hazardous substances contravention notice where it appears to them that a contravention of hazardous substances control can be avoided only by the taking of action amounting to a breach of a statutory duty.
- (3) In this Act “hazardous substances contravention notice” means a notice—
 - (a) specifying an alleged contravention of hazardous substances control ;
 - and
 - (b) requiring such steps as may be specified in the notice to be taken to remedy the contravention.
- (4) A copy of a hazardous substances contravention notice shall be served—
 - (a) on the owner, the lessee and the occupier of the land to which it relates ;
 - and
 - (b) on such other persons as may be prescribed.
- (5) A hazardous substances contravention notice shall also specify—
 - (a) a date not less than 28 days from the date of service of copies of the notice as the date on which it is to take effect ;
 - (b) in respect of each of the steps required to be taken to remedy the contravention of hazardous substances control, the period from the notice taking effect within which the step is to be taken.
- (6) Where a planning authority issue a hazardous substances contravention notice the steps required by the notice may, without prejudice to the generality of subsection (3)(b) above, if the authority think it expedient, include a requirement that the hazardous substance be removed from the land.
- (7) Where a notice includes such a requirement, it may also contain a direction that at the end of such period as may be specified in the notice any hazardous substances consent for the presence of the substance shall cease to have effect or, if it relates to more than one substance, shall cease to have effect so far as it relates to the substance which is required to be removed.

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- (8) The planning authority may withdraw a hazardous substances contravention notice (without prejudice to their power to issue another) at any time before it takes effect.
- (9) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (10) The Secretary of State may by regulations—
- (a) specify matters which are to be included in hazardous substances contravention notices, in addition to those which are required to be included in them by this section ;
 - (b) provide—
 - (i) for appeals to him against hazardous substances contravention notices ;
 - (ii) for the persons by whom, grounds upon which and time within which such an appeal may be brought ;
 - (iii) for the procedure to be followed on such appeals ;
 - (iv) for the directions that may be given on such an appeal ;
 - (v) for the application to such appeals, subject to such modifications as the regulations may specify, of any of the provisions of sections 85, 231(3) and 233 of this Act ;
 - (c) direct that any of the provisions of sections 86 to 89A of this Act shall have effect in relation to hazardous substances contravention notices subject to such modifications as he may specify in the regulations ;
 - (d) make such other provision as he considers necessary or expedient in relation to hazardous substances contravention notices.
- (11) If any person appeals against a hazardous substances contravention notice, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (12) Regulations under this section may make different provisions for different cases or descriptions of cases.”.

Commencement Information

I4 S. 36 wholly in force; s. 36 not in force at Royal Assent see s. 57(2); s. 36 in force for specified purposes at 18.2.1993 and wholly in force at 1.5.1993 by S.I. 1993/273, arts. 3, 5(1).

Marginal Citations

M33 1972 c. 52.

37 Consequential amendments. S

The enactments mentioned in Part II of Schedule 7 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Part of this Act.

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Commencement Information

- I5** S. 37 wholly in force; s. 37 not in force at Royal Assent see s. 57(2); s. 37 in force at 18.2.1993 so far as it relates to para. 4 of Sch. 7 Pt. II and at 1.5.1993 so far as it relates to paras. 1-3, 5-8 of Sch. 7 Pt. II by S.I. 1993/273, arts. 4, 5(2).

38 Transitional (Scotland). **S**

- (1) Until the end of the transitional period—
- no offence is committed under section 56L of the ^{M34}Town and Country Planning (Scotland) Act 1972 ; and
 - no hazardous substances contravention notice may be issued, in relation to a hazardous substance which is on, under or over any land,
- if the substance was present on, under or over the land at any time within the establishment period and—
- in a case in which at the commencement date notification in respect of the substance was required by any of the Notification Regulations, both the conditions specified in subsection (2) below were satisfied ; and
 - in a case in which at that date such notification was not so required, the condition specified in paragraph (b) of that subsection is satisfied.
- (2) The conditions mentioned in subsection (1) above are—
- that notification required by the Notification Regulations was given before the commencement date ; and
 - that the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.
- (3) Where a hazardous substance was present on, under or over any land at any time within the establishment period, hazardous substances consent may be claimed in respect of its presence.
- (4) A claim shall be made in the prescribed form before the end of the transitional period and shall contain the prescribed information as to the presence of the substance during the establishment period and as to how and where it was kept and used [^{F13}while it was so present].
- (5) Subject to subsections (6) to (8) below, the planning authority shall be deemed to have granted any hazardous substances consent which is claimed under subsection (2) above.
- (6) If at the commencement date notification in respect of the substance was required by regulation 3 or 5 of the Notification Regulations, hazardous substances consent is only to be deemed to be granted under this section if notification in respect of the substance was given before that date in accordance with those regulations.
- (7) If at the commencement date such notification was not so required, hazardous substances consent is only to be deemed to be granted under this section if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.
- (8) If it appears to the planning authority that a claim for hazardous substances consent does not comply with subsection (4) above, it shall be their duty, before the end of the period of two weeks from their receipt of the claim,—

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- (a) to notify the claimant that in their opinion the claim is invalid; and
 - (b) to give him their reasons for that opinion.
- (9) Hazardous substances consent which is deemed to be granted under this section is ^{F14}subject to—
- (a) the condition that] the maximum aggregate quantity of the substance that may be present—
 - (i) on, under or over the land to which the claim relates ;
 - (ii) on, under or over other land which is within 500 metres of it and controlled by the same person ; or
 - (iii) in or on a structure controlled by the same person any part of which is within 500 metres of it,
 at any one time shall not exceed the established quantity ; and
 - ^{F15}(b) such other conditions (if any) as are prescribed, by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, for the purposes of this section and are applicable in the case of that consent].
- (10) In this section—
- “commencement date” means the date on which this Part of this Act comes into force ;
- “the establishment period” means the period of 12 months immediately preceding the commencement date ;
- “established quantity” means, in relation to any land—
- (a) where before the commencement date there has been a notification in respect of a substance in accordance with any of the Notification Regulations—
 - (i) the quantity notified or last notified before the commencement date ;
 - or
 - (ii) a quantity equal to twice the quantity which was so notified or last notified before the start of the establishment period,
 whichever is the greater ;
 - (b) where a notification was not required before that date by any of those regulations, a quantity exceeding by 50 per cent. the maximum quantity which was present on, under or over the land at any one time within the establishment period ;
- “Notification Regulations” means the ^{M35}Notification of Installations Handling Hazardous Substances Regulations 1982 ;
- “the transitional period” means the period of 6 months beginning with the commencement date ;
- and other expressions have the same meaning as in the ^{M36}Town and Country Planning (Scotland) Act 1972.

Textual Amendments

F13 Words in s. 38(4) substituted (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 Pt. II para. 12\(2\)](#); S.I. 1993/274, [art.2](#).

F14 Words in s. 38(9) substituted (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 Pt. II para. 12\(3\)\(a\)](#); S.I. 1993/274, [art.2](#).

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F15 S. 38(9)(b) substituted (18.2.1993) for s. 38(9)(b)(c) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 Pt. II para. 12(3)(b)**; S.I. 1993/274, **art.2**.

Commencement Information

I6 S. 38 wholly in force; s. 38 not in force at Royal Assent see s. 57(2); s. 38 in force for specified purposes at 18.2.1993 and wholly in force at 1.5.1993 by S.I. 1993/273, **arts. 3, 5(1)**.

Marginal Citations

M34 1972 c. 52.

M35 S.I. 1982/1357.

M36 1972 c. 52.

PART V **E+W+S**

OPENCAST COAL

39 **Abolition of Secretary of State’s power to authorise opencast working, &c.** **E+W+S**

- (1) The following provisions of the ^{M37}Opencast Coal Act 1958 (“the 1958 Act”) shall cease to have effect—
- (a) sections 1 and 2 (authorisation by Secretary of State of opencast working of coal and associated provisions); and
 - (b) section 9(2) (buildings on land comprised in a compulsory rights order),
- but this subsection does not affect a direction given under section 2 of the 1958 Act before the day on which the repeal of that section by paragraph (a) above comes into operation, and any repeal by this Act of an enactment which relates to directions under section 2 of the 1958 Act shall have no effect in relation to directions whose effect is continued by this subsection.
- (2) The repeal of section 2(4) of the 1958 Act shall not prevent the felling of a tree that could not have been felled but for paragraph (a) of that subsection (which negated tree preservation orders).
- (3) The 1958 Act shall have effect with the amendments specified in Part I of Schedule 8 to this Act and section 29 of the ^{M38}Acquisition of Land Act 1981 shall have effect with the amendments specified in Part II of that Schedule.
- (4) The enactments specified in Part II of Schedule 12 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

Marginal Citations

M37 1958 c. 69.

M38 1981 c. 67.

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART VI E+W+S

MISCELLANEOUS PROVISIONS

England and Wales

40 Listed buildings and conservation areas. E+W

The enactments relating to listed buildings and conservation areas are amended in accordance with Part I of Schedule 9 with respect to the following matters—

- (a) the treatment of free-standing objects and structures within the curtilage of a listed building;
- (b) the scope of the exception for urgent works to a listed building;
- (c) the grant of listed building consent subject to the subsequent approval of detail;
- (d) applications for the variation or discharge of conditions attached to listed building consent;
- (e) the extent of the exemption accorded to ecclesiastical buildings;
- (f) dangerous structure orders in respect of listed buildings;
- (g) the power of a local authority, the Secretary of State or the Historic Buildings and Monuments Commission for England to carry out urgent works for the preservation of a building;
- (h) the control of demolition in a conservation area;
- (i) the form of an application for listed building consent; and
- (j) the powers of the Secretary of State with respect to applications for listed building consent.

41 F16 E+W

Textual Amendments
F16 Ss. 25, 30–34, 41 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

42 Recovery of Minister’s costs in connection with inquiries. E+W

(1) The following provisions of this section apply where a Minister is authorised under or by virtue of any of the following statutory provisions to recover costs incurred by him in relation to an inquiry—

- (a) section 250(4) of the ^{M39}Local Government Act 1972 (general provision as to costs of inquiries),
- ^{F17}(b)
- (c) section 129(1)(d) of the ^{M40}Road Traffic Regulation Act 1984 (costs of inquiry under that Act),
- (d) ^{F18}
- (e) any other statutory provision to which this section is applied by order of the Minister.

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) What may be recovered by the Minister is the entire administrative cost of the inquiry, so that, in particular—
 - (a) there shall be treated as costs incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff costs and overheads of his department, and
 - (b) there shall be treated as costs incurred by the Minister holding the inquiry any costs incurred in relation to the inquiry by any other Minister or government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff costs and overheads.
- (3) The cost of an inquiry which does not take place may be recovered by the Minister from any person who would have been a party to the inquiry to the same extent, and in the same way, as the cost of an inquiry which does take place.
- (4) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
 - (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,
 - (b) costs actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry,
 - (c) any costs attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
 - (d) any legal costs or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.
- (5) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order applying this section to a statutory provision may provide for the consequential repeal of so much of that provision, or any other provision, as restricts the sum recoverable by the Minister in respect of the services of any officer engaged in the inquiry or is otherwise inconsistent with the application of the provisions of this section.

Textual Amendments

- F17** S. 42(1)(b) repealed (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I**.
- F18** S. 42(1)(d) repealed by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 194(4), **Sch. 12 Pt. II**

Modifications etc. (not altering text)

- C1** S. 42 extended (1.12.1991) by [Water Resources Act 1991](#) (c. 57, SIF 130), ss. **214(7)**, 225(2).
- C2** S. 42 applied (1.12.1991) by [Land Drainage Act 1991](#) (c. 59, SIF 73:1), ss. **69(7)**, 76(2).
S. 42: functions shall be exercisable by the Assembly concurrently with any Minister of the Crown (16.2.2000) by [S.I. 2000/253](#), art. 2, **Sch. 1**

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M39 1972 c. 70.

M40 1984 c. 27.

43 **Compulsory acquisition of land on behalf of parish or community councils.** E +W

For section 125 of the ^{M41}Local Government Act 1972 (compulsory acquisition of land on behalf of parish or community councils) substitute—

“125 Compulsory acquisition of land on behalf of parish or community councils.

- (1) If a parish or community council are unable to acquire by agreement under section 124 above and on reasonable terms suitable land for a purpose for which they are authorised to acquire land other than—
 - (a) the purpose specified in section 124(1)(b) above, or
 - (b) a purpose in relation to which the power of acquisition is by an enactment expressly limited to acquisition by agreement,
 they may represent the case to the council of the district in which the parish or community is situated.
- (2) If the district council are satisfied that suitable land for the purpose cannot be acquired on reasonable terms by agreement, they may be authorised by the Secretary of State to purchase compulsorily the land or part of it; and the Acquisition of Land Act 1981 shall apply in relation to the purchase.
- (3) The district council in making and the Secretary of State in confirming an order for the purposes of this section shall have regard to the extent of land held in the neighbourhood by an owner and to the convenience of other property belonging to the same owner and shall, as far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner.
- (4) The order shall be carried into effect by the district council but the land when acquired shall be conveyed to the parish or community council; and accordingly in construing for the purposes of this section and of the order any enactment applying in relation to the compulsory acquisition, the parish or community council or the district council, or the two councils jointly, shall, as the case may require, be treated as the acquiring authority.
- (5) The district council may recover from the parish or community council the expenses incurred by them in connection with the acquisition of land under this section.
- (6) If a parish or community council make representations to a district council with a view to the making of an order under this section and the district council—
 - (a) refuse to make an order, or
 - (b) do not make an order within 8 weeks from the making of the representations or such longer period as may be agreed between the two councils,

the parish or community council may petition the Secretary of State who may make the order, and this section and the provisions of the Acquisition of Land

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Act 1981 shall apply as if the order had been made by the district council and confirmed by the Secretary of State.

- (7) In the application of this section to a parish or community council for a group of parishes or communities—
- (a) references to the parish or community shall be construed as references to the area of the group, and
 - (b) if different parts of the area of the group lie in different districts, references to the council of the district in which the parish or community is situated shall be construed as references to the councils of each of the districts acting jointly.”.

Modifications etc. (not altering text)

C3 S. 43 restricted by S.I. 1990/614, art. 3

Marginal Citations

M41 1972 c. 70.

44 ^{F19} **E+W**

Textual Amendments

F19 S. 44 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), Sch. 18 (with s. 112(3), Sch. 17 para. 35(1))

45, 46. ^{F20} **E+W**

Textual Amendments

F20 Ss. 45, 46 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

47 **Areas which may be designated urban development areas.** **E+W**

In section 134 of the ^{M42}Local Government, Planning and Land Act 1980 (power to designate urban development areas), omit subsection (2) (which restricts the power to land in metropolitan districts and certain land in or adjacent to inner London).

Marginal Citations

M42 1980 c. 65.

48 **Repeal of unnecessary enactments.** **E+W**

- (1) The following enactments are repealed—

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) section 52 of the ^{M43}Requisitioned Land and War Works Act 1945 and paragraph 10 of the Schedule to the ^{M44}Requisitioned Land and War Works Act 1948 (reimbursement of expense of restoring land affected by war works, &c.);
 - (b) sections 66 to 72 of the ^{M45}Town and Country Planning Act 1971 (special control over industrial development);
 - (c) sections 250 to 252 of that Act (grants to local authorities for development of land, &c.).
- (2) The repeal does not affect the operation—
- (a) of section 52 of the Requisitioned Land and War Works Act 1945 or paragraph 10 of the Schedule to the Requisitioned Land and War Works Act 1948 in relation to undertakings given before the repeal;
 - (b) of sections 250 to 252 of the 1971 Act in relation to land for which approval for the purposes of regulations under section 250 was sought before 1st April 1986.

Marginal Citations

- M43** 1945 c. 43.
M44 1948 c. 17.
M45 1971 c. 78.

49 Minor and consequential amendments; repeals. E+W

- (1) The Town and Country Planning Act 1971, and certain related enactments, are amended in accordance with Part I of Schedule 11 with respect to the following matters—
- (a) the operation of the Use Classes Order on the subdivision of the planning unit;
 - (b) the provision which may be made by development orders;
 - (c) the construction of references to certain documents relating to access for the disabled;
 - (d) applications to vary or revoke conditions attached to planning permission;
 - (e) the procedure on appeals and applications disposed of without a local inquiry or hearing;
 - (f) purchase notices;
 - (g) local inquiries;
 - (h) the determination of appeals by inspectors; and
 - (i) daily penalties for offences;
- and that Part also contains amendments consequential on the provisions of this Part.
- (2) The enactments specified in Part III of Schedule 12 are repealed to the extent specified.

Scotland

50 Listed buildings and conservation areas. S

The enactments relating to listed buildings and conservation areas are amended in accordance with Part II of Schedule 9 with respect to the following matters—

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the treatment of free-standing objects and structures within the curtilage of a listed building ;
- (b) late applications for listed building consent ;
 - (c) defence to proceedings under section 53 ;
 - (d) the grant of listed building consent subject to subsequent approval of detail ;
 - (e) applications for the variation or discharge of conditions attached to listed building consent ;
 - (f) the extent of the exemption accorded to ecclesiastical buildings ;
 - (g) the effect of a listed building enforcement notice ;
 - (h) the power of a local authority or the Secretary of State to carry out urgent works for the preservation of a building ;
 - (i) the control of demolition in a conservation area ;
 - (j) the form of an application for listed building consent ;
 - (k) the calling in of applications for listed building consent ; and
 - (l) the application to planning authorities of provisions relating to listed buildings.

51 Grants for repair of buildings in town schemes. **S**

After section 10B of the ^{M46}Town and Country Planning (Amendment) Act 1972 there shall be inserted the following section—

“10C Grants for repair of buildings in town schemes.

- (1) The Secretary of State may make grants for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in the repair of a building which—
 - (a) is comprised in a town scheme ; and
 - (b) appears to him to be of architectural or historic interest.
- (2) For the purposes of this section a building is comprised in a town scheme if—
 - (a) it is in an area—
 - (i) designated as a conservation area under section 262 of the Act of 1972 ; and
 - (ii) appearing to the Secretary of State to be of outstanding architectural or historic interest ; and
 - (b) it is included in a town scheme list or shown on a town scheme map.
- (3) In subsection (2) above—

“town scheme list”, means a list, compiled, after consultation with the Historic Buildings Council for Scotland, by the Secretary of State and one or more local authorities, of buildings which are to be the subject of a repair grant agreement ; and

“town scheme map” means a map, prepared after such consultation by the Secretary of State and one or more local authorities, showing buildings which are to be the subject of such an agreement.
- (4) In subsection (3) above—

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“repair grant agreement” means an agreement between the Secretary of State and any authority who have participated in the compilation of a town scheme list or the preparation of a town scheme map under which the Secretary of State and the authority or authorities who have so participated have agreed that a specified sum of money shall be set aside for a specified period of years for the purpose of making grants for the repair of the buildings included in the town scheme list or shown on the town scheme map.

- (5) A grant under this section may be made subject to conditions imposed by the Secretary of State for such purposes as he may think fit.
- (6) Subject to subsection (7) below, before making any grant under this section the Secretary of State may consult with the Council, both as to the making of the grant and as to the conditions subject to which it should be made.
- (7) Subsection (6) above shall not apply where the making of a grant appears to the Secretary of State to be a matter of immediate urgency.
- (8) The Secretary of State may pay any grant under this section to an authority participating in a town scheme and may make arrangements with any such authority for the way in which the scheme is to be administered.
- (9) Arrangements under subsection (8) above may include such arrangements for the offer and payment of grants under this section as may be agreed between the Secretary of State and any authority or authorities participating in a town scheme.
- (10) Section 2 of the Local Authorities (Historic Buildings) Act 1962 (recovery of grants made by local authorities on disposal of property within three years) shall apply to a grant made by the Secretary of State under this section as it applies to a grant for the repair of property made by a local authority under that Act ; and any reference to a local authority in that section shall accordingly be construed, in relation to a grant under this section, as a reference to the Secretary of State.
- (11) In this section “local authority” means a regional, islands or district council.”.

Marginal Citations

M46 1972 c. 42.

52 Termination of grants for redevelopment etc. **S**

- (1) No payment of grant under—
 - (a) Sections 237 to 239 of the ^{M47}Town and Country Planning (Scotland) Act 1972,
 - (b) section 14 of the ^{M48}Housing and Town Development (Scotland) Act 1957, and
 - (c) section 9 of the ^{M49}Local Government (Scotland) Act 1966
 shall be made for the financial year 1986-87 or for any subsequent financial year.
- (2) No claim for grant under the enactments mentioned in subsection (1)(a) and (b) above in respect of financial years prior to 1986-87 shall be entertained by the Secretary of State unless—

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) it is received by him before this Act is passed, and
- (b) any information reasonably required by him in relation to any such claim is received by him before the expiry of the period of two months after this Act is passed.

Marginal Citations

M47 1972 c. 52.

M48 1957 c. 38

M49 1966 c. 51.

VALID FROM 01/06/1996

53 Minor and consequential amendments; repeals. **S**

(1) The ^{M50}Town and Country Planning (Scotland) Act 1972, the ^{M51}Local Government (Scotland) Act 1973 and certain related enactments are amended in accordance with Part II of Schedule 11 with respect to the following matters—

- (a) directions as to modifications of local plans;
- (b) the operation of the Use Classes Order on the sub-division of the planning unit;
- (c) the provision that may be made by development orders;
- (d) applications to vary or revoke conditions attached to planning permission;
- (e) land adversely affecting the amenity of the neighbourhood;
- (f) purchase notices;
- (g) National Scenic Areas;
- (h) local inquiries;
- (i) procedure on applications and appeals disposed of without an inquiry or hearing;
- (j) the determination of appeals by appointed persons;
- (k) daily penalties for offences;

and that Part also contains other minor amendments and amendments consequential on the provisions of this Part.

(2) The enactments mentioned in Part IV of Schedule 12 to this Act are repealed to the extent specified.

Commencement Information

I7 S. 53(1)(2) partly in force; s. 53(1)(2) not in force at Royal Assent see s. 57(1)-(3); s. 53(1)(2) in force for specified purposes at 1.6.1996 by [S.I. 1996/1276](#), [art. 2](#)

Marginal Citations

M50 1972 c. 52.

M51 1973 c. 65.

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Provisions common to England and Wales and Scotland

54 Effect of modification or termination of enterprise zone scheme. E+W+S

- (1) In Schedule 32 to the ^{M52}Local Government, Planning and Land Act 1980 (enterprise zones), for paragraphs 21 and 22 (effect of modification or termination of scheme on planning permission) substitute—

Effect on planning permission of modification or termination of scheme

“21 Modifications to a scheme do not affect planning permission under the scheme in any case where the development authorised by it has been begun before the modifications take effect.

“22 (1) Upon an area ceasing to be an enterprise zone planning permission under the scheme shall cease to have effect except in a case where the development authorised by it has been begun.

(2) The following provisions (which provide for the termination of planning permission if the completion of development is unreasonably delayed) apply to planning permission under the scheme where development has been begun but not completed by the time the area ceases to be an enterprise zone—

(a) in England and Wales, subsections (2) to (6) of section 44 of the 1971 Act;

(b) in Scotland, subsections (2) to (6) of section 41 of the 1972 Act.”.

- (2) In paragraph 26 of that Schedule (interpretation of Part III of the Schedule), after subparagraph (1) insert—

“(1A) The following provisions apply in determining for the purposes of this Schedule when development shall be taken to be begun—

(a) in England and Wales, subsections (1) to (3) of section 43 of the 1971 Act;

(b) in Scotland, subsections (1) to (3) of section 40 of the 1972 Act.”.

Marginal Citations

M52 1980 c. 65.

55 Discrimination in exercise of planning functions. E+W+S

— In Part III of the ^{M53}Race Relations Act 1976 (discrimination in fields other than employment), after section 19 insert—

“19A Discrimination by planning authorities.

(1) It is unlawful for a planning authority to discriminate against a person in carrying out their planning functions.

(2) In this section “planning authority” means—

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in England and Wales, a county, district or London borough council, a joint planning board, a special planning board or a National Park Committee, and
 - (b) in Scotland, a planning authority or regional planning authority, and includes an urban development corporation and a body having functions (whether as an enterprise zone authority or a body invited to prepare a scheme) under Schedule 32 to the Local Government, Planning and Land Act 1980.
- (3) In this section “planning functions” means—
- (a) in England and Wales, functions under the Town and Country Planning Act 1971, and such other functions as may be prescribed, and
 - (b) in Scotland, functions under the Town and Country Planning (Scotland) Act 1972 or Part IX of the Local Government (Scotland) Act 1973, and such other functions as may be prescribed,
- and includes, in relation to an urban development corporation, planning functions under Part XVI of the Local Government, Planning and Land Act 1980 and, in relation to an enterprise zone authority or body invited to prepare an enterprise zone scheme, functions under Part XVIII of that Act.”.

Marginal Citations

M53 1976 c. 74.

PART VII U.K.

GENERAL PROVISIONS

56 Financial provisions. U.K.

- (1) There shall be paid out of money provided by Parliament any expenses of the Secretary of State under this Act and any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.
- (3) There shall be paid out of or into the Consolidated Fund or the National Loans Fund any increase attributable to this Act in the sums so payable under any other enactment.

57 Commencement. U.K.

- (1) The following provisions of this Act come into force on the day this Act is passed—
 - section 21 (effect of resolutions relating to housing action area or general improvement area);
 - section 24(1)(j), paragraphs 10 to 13 of Schedule 5, the repeals specified in the first part of Part I of Schedule 12 and section 24(3) so far as relating to those repeals (miscellaneous corrections);
 - section 52 (termination of grants for redevelopment in Scotland);this Part.

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The other provisions of this Act come into force on such day as may be appointed by the Secretary of State by order made by statutory instrument and—
- (a) different days may be appointed for different provisions or different purposes; and
 - (b) an order may make such transitional provision as the Secretary of State thinks appropriate.
- (3) For the purpose of any transitional provision in this Act or an order which refers to the date of service of a notice under the ^{M54}Housing Act 1985, no account shall be taken of any steps taken under section 177 of that Act (amendment or withdrawal and re-service of notice to correct mistakes).

Subordinate Legislation Made

P1 [S. 57\(2\)](#) power partly exercised (11.7.1992); different dates appointed for specified provisions by [S.I. 1992/1753](#), [art. 2](#) (with transitional provisions)

Modifications etc. (not altering text)

C4 Power of appointment conferred by s. 57(2) partly exercised by [S.I. 1986/2262](#), 1987/304, 348, 754, 1554, 1607, 1759, 1939, 2277, 1988/283, 1787, 1989/430, 1990/511, 614, 797

Marginal Citations

M54 [1985 c. 68](#).

VALID FROM 23/09/1996

58 Extent. **U.K.**

- (1) The following provisions of this Act extend to England and Wales—
- Part I (housing), except section 3, paragraphs 10(7), 14 and 17 of Schedule 5 and the associated repeals in Part I of Schedule 12;
F21,
 ;
- Part III (financial assistance for urban regeneration);
F21,
 ;
- Part V (opencast coal);
- in Part VI (miscellaneous provisions), sections 40 to 49, 54 and 55, Part I of Schedule 9, Schedule 10, Part I of Schedule 11 and Part III of Schedule 12; this Part.
- (2) The following provisions of this Act extend to Scotland—
- in Part I (housing), sections 3, 19 and 22, paragraphs 8, 10(7), 13, 14, 17, 18 and 42 of Schedule 5 and the associated repeals in Part I of Schedule 12;
- in Part II (simplified planning zones), section 26 and Parts III and IV of Schedule 6;
- Part III (financial assistance for urban regeneration);
- in Part IV (hazardous substances), sections 35 to 38 and Part II of Schedule 7;
- Part V (opencast coal), except so far as it repeals enactments which extend to England and Wales only;

Status: Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Housing and Planning Act 1986 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

in Part VI (miscellaneous provisions), sections 50 to 55, Part II of Schedule 9, Part II of Schedule 11 and Part IV of Schedule 12;
this Part.

- (3) The following provisions of this Act extend to Northern Ireland—
section 22 (amendments of Consumer Credit Act 1974), paragraph 18 of Schedule 5 (amendment relating to stamp duty),
this Part.

Textual Amendments

F21 Words repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

59 Short title. **U.K.**

This Act may be cited as the Housing and Planning Act 1986.

Status:

Point in time view as at 18/02/1993. This version of this Act contains provisions that are not valid for this point in time.

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