



Housing and Planning Act 1986

1986 CHAPTER 63

PART I

HOUSING

Miscellaneous

14 Housing the homeless

- (1) The 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,

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.”.

15 Grants for improvement or repair of common parts

Part XV of the 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.

16 Housing management; financial assistance, etc.

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 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.

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

- (a) to persons providing educational or training courses 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

- (1) Section 70 of the 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.

18 Further provisions with respect to shared ownership leases

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

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

19 Extension of permitted objects of registered housing associations

In section 4 of the Housing Associations Act 1985 (eligibility for registration), in subsection (3) (permissible additional purposes or objects of association), after paragraph (d) insert—

“(dd) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;”.

20 Disposal of dwellings in new towns

(1) Part III of the New Towns Act 1981 (transfer of new town housing to district councils), is amended as follows.

(2) After section 57 insert—

“57A 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 a 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).

21 Effect of resolutions relating to housing action area or general improvement area

(1) In Part VIII of the 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—

- (a) 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
- (b) 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—
- (a) 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
 - (b) 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.
- (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 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)(6) (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 " .

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

- (1) Section 16 of the 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)(o) of the Housing Act 1985, section 2 of the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 or section 31 of the Tenants' 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 (1) " substitute " , (f) or (f) " .
- (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.

23 Determination of price for leasehold enfranchisement

- (1) In section 9(1 A) of the 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.

24 Minor and consequential amendments; repeals

- (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 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 land lord 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 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 ;

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

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