



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART I

#### PROVISION OF HOUSING

##### **Modifications etc. (not altering text)**

- C1** Pt. I (ss. 1-23) restricted (19.8.1996) by [1996 c. 49, s. 9](#); [S.I. 1996/2127, art. 2, Sch. Pt. I](#)
- C2** [Pt. I](#) modified (1.12.2014 for specified purposes, 1.2.2016 for E. in so far as not already in force) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 3 para. 2\(4\)](#); [S.I. 2014/2771, art. 6\(1\)\(m\)](#); [S.I. 2016/11, art. 2\(m\)](#)

#### *Duties and powers of local authorities*

### **1 Duty of local authority to consider needs of their area for further housing accommodation.**

- (1) Every local authority shall consider the housing conditions in their area and the needs of the area for further housing accommodation.
- (2) For that purpose they shall review any information which has been brought to their notice, including in particular information brought to their notice as a result of a survey or inspections made under section (3).
- (3) If the Secretary of State gives them notice to do so, they shall, within 3 months after such notice, prepare and submit to him proposals for the provision of housing accommodation.
- (4) In considering the needs of their area for further housing accommodation under subsection (1), every local authority shall have regard to the special needs of chronically sick or disabled persons; and any proposals prepared and submitted to the Secretary of State under subsection (3) shall distinguish any houses which they propose to provide which make special provision for the needs of such persons.

*Status: Point in time view as at 01/02/2016.*

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## 2 Powers of local authority to provide housing accommodation.

- (1) A local authority may provide housing accommodation—
- (a) by the erection of houses on any land acquired or appropriated by them;
  - (b) by the conversion of any buildings into houses;
  - (c) by acquiring houses;
  - (d) by altering, enlarging, repairing or improving any houses or other buildings which have, or a right or interest in which has, been acquired by the local authority.
- (2) For the purpose of supplying the needs for housing accommodation in its area, a local authority may exercise any of its powers under subsection (1) outside that area.
- (3) A local authority may alter, enlarge, repair or improve any house provided by them under subsection (1).
- (4) For the purposes of this Part the provision of housing accommodation includes the provision of—
- (a) a cottage with a garden of not more than one acre;
  - (b) a hostel.
- (5) In this section “hostel” means—
- (a) in relation to a building provided or converted before 3 July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in separate and self-contained dwellings) and board;
  - (b) in relation to a building provided or converted on or after 3 July 1962, a building in which is provided, for persons generally or for any class or classes of persons, residential accommodation (otherwise than in houses) and either board or common facilities for the preparation of food adequate to the needs of those persons or both.
- [<sup>F1</sup>(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part.]

### Textual Amendments

**F1** S. 2(6) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 161\(2\)](#)

## 3 Power of local authority to provide shops, etc., in connection with housing accommodation.

- (1) Subject to the provisions of this section, a local authority may provide and maintain—
- (a) any building adapted for use as a shop;
  - (b) any recreation grounds;
  - (c) such other buildings or land as are referred to in subsection (2),
- in connection with housing accommodation provided by them under this Part.
- (2) The buildings or land referred to in subsection (1)(c) are buildings or land which in the opinion of the Secretary of State will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

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- (3) The provision and maintenance of any building or land under this section—
  - (a) requires the consent of the Secretary of State;
  - (b) may be undertaken jointly with any other person.
- (4) The Secretary of State may, in giving his consent to the provision of any building or land under this section, by order apply, with any necessary modifications, to that building or land any statutory provisions which would have been applicable to it if the building or land had been provided under any enactment giving any local authority powers for that purpose.

#### **4 Power of local authority to provide furniture, etc.**

- (1) A local authority—
  - (a) may fit out, furnish and supply any house erected, converted or acquired by them under section 2 with all requisite furniture, fittings and conveniences;
  - (b) shall have power to sell, or to supply under a hire-purchase agreement, furniture to the occupants of houses provided by the local authority and, for that purpose, to buy furniture.
- (2) In this section “hire-purchase agreement” means a hire-purchase or conditional sale agreement within the meaning of the <sup>M1</sup>Consumer Credit Act 1974.

#### **Marginal Citations**

**M1** 1974 c. 39.

#### **5 Power of local authority to provide board and laundry facilities.**

- (1) The power of a local authority under this Part to provide housing accommodation shall include power to provide, in connection with the provision of such accommodation for any persons, such facilities for obtaining meals and such laundry facilities and services as accord with the needs of those persons.
- (2) A local authority may make such reasonable charges for meals provided by them by virtue of this section, and such reasonable charges to persons availing themselves of laundry facilities or services so provided, as the authority may determine.

<sup>F2</sup>(3) .....

#### **Textual Amendments**

**F2** S. 5(3) repealed (1.9.2009 at 5.00 a.m.) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), [sch. 7](#) (with s. 143); [S.S.I. 2007/472](#), art. 3

#### **[<sup>F3</sup>5A Power of local authority to provide welfare services.**

- (1) A local authority may provide in connection with housing accommodation provided by them (whether or not under this Part) such welfare services, that is to say services for promoting the welfare of the persons for whom the accommodation is so provided, as accord with the needs of those persons.

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- (2) The local authority may make reasonable charges for welfare services provided by virtue of this section.
- (3) Notwithstanding the provisions of section 203, a local authority may attribute the income from and the expenditure on the welfare services provided under subsection (1) to a revenue account other than their housing revenue account.
- (4) In this section “welfare services” does not include the repair, maintenance, supervision or management of houses or other property.
- (5) The powers conferred by this section shall not be regarded as restricting those conferred by section 83 of the Local Government (Scotland) Act 1973 (power to incur expenditure for purposes not otherwise authorised) and accordingly the reference in subsection (1) of that section to any other enactment shall not include a reference to this section.]

#### Textual Amendments

**F3** S. 5A inserted (retrospectively) by 1993 c. 28, ss. 149, 188(2)(b).

#### [<sup>F4</sup>5B Power to repeal provisions relating to welfare services.

- (1) The Secretary of State may at any time by order made by statutory instrument provide that, on such day or in relation to such periods as may be appointed by the order, section 5A, this section and paragraph 4A of Schedule 15 shall—
  - (a) cease to have effect; or
  - (b) cease to apply for such purposes as may be specified in the order.
- (2) An order under this section may—
  - (a) appoint different days or periods for different provisions or purposes or for different authorities or descriptions of authority; and
  - (b) contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.]

#### Textual Amendments

**F4** S. 5B inserted (20.7.1993) by 1993 c. 28, ss. 151, 188(2)(b).

#### 6 Duty of local authority to have regard to amenities of locality, etc.

- (1) A local authority, in preparing any proposals for the provision of houses or in taking any action under this Act, shall have regard to artistic quality in the lay-out, planning and treatment of the houses to be provided, the beauty of the landscape or countryside and the other amenities of the locality, and the desirability of preserving existing works of architectural, historic or artistic interest.
- (2) For their better advice in carrying out the requirements of subsection (1), a local authority may appoint a local advisory committee including representatives of architectural and other artistic interests.

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## **7 Execution of works by local authority in connection with housing operations outside their area.**

Where any housing operations under this Part are being carried out by a local authority outside their own area, that authority shall have power to execute any works which are necessary for the purposes, or are incidental to the carrying out, of the operations, subject to entering into an agreement with the local authority of the area in which the operations are being carried out as to the terms and conditions on which any such works are to be executed.

## **8 Adjustment of differences between local authorities as to carrying out of proposals for provision of housing accommodation.**

Where a local authority are providing houses in the area of another local authority, any difference arising between those authorities with respect to the carrying out of the proposals may be referred by either authority to the Secretary of State, and the Secretary of State's decision shall be final and binding on the authorities.

### *Acquisition and disposal of land*

## **9 Power of local authority to acquire land for, or in connection with, provision of housing accommodation.**

- (1) A local authority may acquire—
- (a) any land as a site for the erection of houses;
  - (b) land proposed to be used for any purpose authorised by section 3 or section 5;
  - (c) subject to subsection (2),
    - (i) houses, and
    - (ii) buildings other than houses, being buildings which may be made suitable as houses,together with any lands occupied with the houses or buildings, or any right or interest in the houses or buildings;
  - (d) land for the purposes of—
    - (i) selling or leasing the land under the powers conferred by this Act, with a view to the erection on the land of houses by persons other than the local authority;
    - (ii) selling or leasing, under the powers conferred by this Act, any part of the land acquired, with a view to the use of that land for purposes which in the opinion of the local authority are necessary or desirable for, or incidental to, the development of the land as a building estate;
    - (iii) carrying out on the land works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house;
    - (iv) selling or leasing the land under the powers conferred by this Act, with a view to the carrying out on the land by a person other than the local authority of such works as are mentioned in sub-paragraph (iii).
- (2) Nothing in subsection (1)(c) shall authorise a local authority to acquire otherwise than by agreement any house or other building which is situated on land used for agriculture, and which is required in connection with that use of that land.

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## 10 Procedure for acquiring land.

- (1) Land for the purposes of this Part may be acquired by a local authority by agreement under section 70 of the <sup>M2</sup>Local Government (Scotland) Act 1973.
- (2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of this Part, and the <sup>M3</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (3) A local authority may acquire land by agreement, or may be authorised by the Secretary of State to purchase land compulsorily, for the purposes of this Part, notwithstanding that the land is not immediately required for those purposes.
- (4) Where land is purchased compulsorily by a local authority for the purposes of this Part, the compensation payable in respect thereof shall be assessed by the Lands Tribunal in accordance with the <sup>M4</sup>Land Compensation (Scotland) Act 1963, subject to the rules set out in Schedule I.

### Marginal Citations

- M2** 1973 c. 65.  
**M3** 1947 c. 42.  
**M4** 1963 c. 51.

## 11 Local authority may take possession of land to be acquired by agreement or appropriated for purposes of this Part.

- (1) Where a local authority have agreed to purchase, or have determined to appropriate, land for the purposes of this Part, subject to the interest of the person in possession of the land, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation takes effect, the authority may, after giving to the person in possession not less than 14 days' notice and subject to subsection (2), enter on and take possession of the land or such part of it as is specified in the notice without previous consent.
- (2) The powers conferred by subsection (1) are exercisable subject to payment to the person in possession of the like compensation and interest on the compensation awarded, as if the authority had been authorised to purchase the land compulsorily and that person had in pursuance of such power been required to give up possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections 83 to 88 of the <sup>M5</sup>Lands Clauses Consolidation (Scotland) Act 1845.

### Marginal Citations

- M5** 1845 c. 19.

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## **12 Powers of dealing with land acquired or appropriated for purposes of this Part.**

- (1) Where a local authority have acquired or appropriated any land for the purposes of this Part, then, without prejudice to any of their other powers under this Act, the authority may—
  - (a) lay out and construct roads and open spaces on the land;
  - (b) subject to subsection (5), sell or lease the land or part of the land to any person under the condition that that person will erect on it in accordance with plans approved by the local authority, and maintain, such number of houses of such types as may be specified by the authority, and when necessary will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the authority, are necessary or desirable for, or incidental to, the development of the land as a building estate in accordance with plans approved by the authority;
  - (c) subject to [<sup>F5</sup>subsections (5) and (7)], sell or lease the land or excamb it for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;
  - (d) subject to subsections (5) and (7), sell or lease any houses or any part share thereof on the land or erected by them on the land, subject to such conditions, restrictions and stipulations as they may think fit to impose in regard to the use of the houses or any part share thereof, and on any such sale they may agree to the price being secured by standard security over the subjects sold.
- (2) Where a local authority sell or lease land under subsection (1), they may contribute or agree to contribute towards the expenses of the development of the land and the laying out and construction of roads on the land, subject to the condition that the roads are dedicated to the public use.
- (3) Where a local authority have acquired a building which may be made suitable as a house, or a right or interest in such a building, they shall forthwith proceed to secure that it is so made suitable either by themselves executing any necessary work or by selling or leasing it to some person subject to conditions for securing that he will so make it suitable.
- (4) Where a local authority acquire any land for the purposes of section 9(1)(d)(iv), they may, subject to subsection (5), sell or lease the land to any person for the purpose and under the condition that that person will carry out on the land, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired.
- (5) A local authority shall not, in the exercise of their powers under subsection (1)(b), (c) or (d), or subsection (4), dispose of land which consists or forms part of a common or open space or is held for use as allotments, except with the consent of the Secretary of State.
- (6) For the purposes of subsection (5), the consent of the Secretary of State may be given either generally to all local authorities, or to any class of local authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Secretary of State may consider appropriate.
- (7) Notwithstanding anything in section 27(1) of the <sup>M6</sup>Town and Country Planning (Scotland) Act 1959 (power of local and other public authority to dispose of land without consent of a Minister), a local authority shall not, in the exercise of their

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powers under subsection [<sup>F6</sup>(1)(c) or (d)], sell or lease any [<sup>F7</sup>land, house or part share thereof] to which the housing revenue account kept under section 203 relates except with the consent of the Secretary of State unless [<sup>F8</sup>, in the case of a house, it is one] to which section 14 applies; and, in giving his consent to such transactions as are referred to in this subsection, the Secretary of State may make general directions or a direction related to a specific transaction.

- (8) Subsection (7) shall not apply [<sup>F9</sup>, in the case of a house,] where—
- (a) the house is being sold to a tenant or to a member of his family who normally resides with him (or to a tenant together with members of his family, as joint purchasers); or
  - (b) the requirements of section 14(2)(b) are satisfied.
- (9) Subject to the provisions of the Town and Country Planning (Scotland) Act 1959, section 74 of the <sup>M7</sup>Local Government (Scotland) Act 1973 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall, subject to subsection (10), apply to any disposal of land by a local authority in the exercise of their powers under subsection (4), as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1973 in the exercise of any power under Part VI of that Act.
- (10) The said section 74 shall not apply to the disposal of a house by a local authority, being a disposal in relation to which subsection (7) has effect.
- (11) For the purposes of this section land shall be taken to have been acquired by a local authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under any enactment to acquire the land compulsorily; but the land shall not be taken to have been so acquired, if the local authority acquired it (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

#### Textual Amendments

- F5** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(a\)](#)
- F6** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(i\)](#)
- F7** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(ii\)](#)
- F8** Words substituted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(b\)\(iii\)](#)
- F9** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), [Sch. 17 Pt. I para. 77\(c\)](#)

#### Modifications etc. (not altering text)

- C3** S. 12 excluded by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), s. 26(5)(c)
- C4** S. 12(7) restricted (1.11.2001) by [2001 asp 10, s. 76\(2\)](#); S.S.I. 2001/336, art. 2(3), [Sch. Pt. II](#) (subject to art. 3)
- S. 12(7) restricted (1.11.2001) by [2001 asp 10, s. 76\(1\)](#), [Sch. 9 para. 2\(1\)](#); S.S.I. 2001/336, art. 2(3), [Sch. Pt. II](#) (subject to art. 3)

#### Marginal Citations

- M6** 1959 c. 70.
- M7** 1973 c. 65.



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<sup>F10</sup>12A .....

**Textual Amendments**

**F10** S. 12A repealed (19.12.2001) by 2001 asp 10, s. 76(1), **Sch. 10 para. 13(2)**; S.S.I. 2001/467, art. 2(2), **Sch.** Table (subject to art. 3)

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

[<sup>F11</sup>(1)] If any house, building, [<sup>F12</sup>or land] in respect of which a local authority are required by section 203 to keep a housing revenue account is sold by the authority with the consent of the Secretary of State, the Secretary of State may in giving consent impose such conditions as he thinks just.

[<sup>F13</sup>(2)] The matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject shall include—

- (a) the extent (if any) to which the person to whom the proposed disposal is to be made (in this subsection referred to as “the intending purchaser”) is, or is likely to be, dependent upon, controlled by or subject to influence from the local authority making the disposal or any members or officers of that authority;
- (b) the extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences;
- (c) the terms of the proposed disposal; and
- (d) any other matters whatsoever which he considers relevant.

(3) Where the Secretary of State gives consent to a disposal by a local authority, he may give directions as to the purpose for which any capital money received by the authority in respect of the disposal is to be applied and, where any such directions are given, nothing in any enactment shall require his consent to be given for the application of the capital money concerned in accordance with the directions.]

**Textual Amendments**

**F11** S. 13 renumbered as s. 13(1) as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **132(3)**

**F12** Words substituted as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 Pt. I para. 78**

**F13** S. 13(2)(3) inserted as provided by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. **132(3)**

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

(1) Subject to section 74(2) of the <sup>M8</sup>Local Government (Scotland) Act 1973 (restriction on disposal of land) but notwithstanding anything contained in section 12(6) or in any other enactment, a local authority may sell any house to which this section applies without the consent of the Secretary of State.

(2) This section applies to a house provided for the purposes of this Part, where—

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- (a) the house is being sold to a tenant or to members of his family who normally reside with him (or to a tenant together with such members of his family, as joint purchasers) [<sup>F14</sup>or, in pursuance of [<sup>F15</sup>Part 11 of the Housing (Scotland) Act 2010 (asp 17)] (change of landlord)]; or
- (b) the house is unoccupied and—
  - (i) it is not held on the housing revenue account maintained in terms of section 203; or
  - (ii) it is held on the housing revenue account and it is, in the opinion of the local authority, either surplus to its requirements or difficult to let, because it has been continuously vacant for a period of not less than 3 months immediately prior to the date of the sale and during that period it has been on unrestricted offer to any applicant on the local authority's housing list (within the meaning of section 19 (admission to housing list)).

#### Textual Amendments

**F14** Words added by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 56(11)

**F15** Words in s. 14(2)(a) substituted (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(3\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

#### Marginal Citations

**M8** 1973 c. 65.

## 15 Power of local authority to enforce obligations against owner for time being of land.

- (1) Where—
  - (a) a local authority have sold or exchanged land acquired by them under this Act, and the purchaser of the land or the person taking the land in exchange has entered into an agreement with the authority concerning the land; or
  - (b) an owner of any land has entered into an agreement with the local authority concerning the land for the purposes of any of the provisions of this Act;
 then, if the agreement has been recorded in the General Register of Sasines, or, as the case may be, registered in the Land Register for Scotland, it shall, subject to subsection (2), be enforceable at the instance of the local authority against persons deriving title from the person who entered into the agreement.
- (2) No such agreement shall at any time be enforceable against any party who has in good faith onerously acquired right (whether completed by infestment or not) to the land prior to the recording of the agreement or against any person deriving title from such party.

## 16 Disposal of land for erection of churches, etc.

Where a local authority, in the exercise of any power conferred on them by this Act, dispose of land to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of [<sup>F16</sup>disposition].

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**Textual Amendments**

**F16** Word in s. 16 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 48\(2\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

*Management and allocation of local authority's houses*

**17 General management and inspection of local authority's houses.**

- (1) The general management, regulation and control of houses held for housing purposes by a local authority shall be vested in <sup>F17</sup> . . . the authority.
- (2) A house held for housing purposes by a local authority shall be at all times open to inspection by the local authority for the area in which it is situated or by any officer duly authorised by them.

**Textual Amendments**

**F17** Words in s. 17(1) repealed (27.9.1993) by [1993 c. 28, ss. 157\(1\), 187\(2\)](#), [Sch. 22](#); S.I. 1993/2163, art. 2, [Sch. 1](#).

*[<sup>F18</sup> Standards and performance in housing management]*

**Textual Amendments**

**F18** Crossheading for ss. 17A-17C inserted (1.4.1994) by [1993 c. 28, s. 153](#); S.I. 1993/2163, art. 2, [Sch. 2](#).

<sup>F19</sup>**17A Publication of information.**

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**Textual Amendments**

**F19** S. 17A repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(2\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

<sup>F20</sup>**17B Power of Secretary of State to direct local authority.**

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**Textual Amendments**

**F20** S. 17B repealed (1.4.2012) by [Housing \(Scotland\) Act 2010 \(asp 17\)](#), s. 166(2), [sch. 2 para. 3\(2\)](#); S.S.I. 2012/39, art. 2, [sch. 1](#) (with [sch. 2](#)) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)

*Status: Point in time view as at 01/02/2016.*

*Changes to legislation: Housing (Scotland) Act 1987, PART I is up to date with all changes known to be in force on or before 22 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)*

## <sup>F21</sup>**[17C Management plan.**

A local authority shall, if the Secretary of State gives them notice to do so, prepare and submit to him within 3 months after such notice, a plan for the management of the houses which they hold for housing purposes.]

### Textual Amendments

**F21** Ss. 17A-17C inserted (1.4.1994) by 1993 c. 28, s. 153; S.I. 1993/2163, art. 2, **Sch. 2**.

## **18 Byelaws for regulation of local authority’s houses.**

A local authority may make byelaws for the management, use and regulation of houses held by them for housing purposes.

## <sup>F22</sup>**19 Admission to housing list**

- (1) An applicant for housing held by a <sup>F23</sup>social landlord] is entitled to be admitted to a housing list unless the applicant is under 16 years of age.
- (2) In this section, “housing list” means a list of applicants for housing which is kept by any <sup>F24</sup>social landlord] or jointly by or on behalf of any two or more <sup>F25</sup>social landlords] in connection with the allocation of housing held by it or them for housing purposes.
- <sup>F26</sup>(3) In this Part, “social landlord” means any local authority or any registered social landlord.]]

### Textual Amendments

**F22** S. 19 substituted (1.4.2002) by 2001 asp 10, s. 9; S.S.I. 2002/168, art. 2, **Sch.** (subject to transitional provisions and savings in art. 3)

**F23** Words in s. 19(1) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(2)(a)**; S.S.I. 2014/264, art. 2, sch.

**F24** Words in s. 19(2) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(2)(b)(i)**; S.S.I. 2014/264, art. 2, sch.

**F25** Words in s. 19(2) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(2)(b)(ii)**; S.S.I. 2014/264, art. 2, sch.

**F26** S. 19(3) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 2 para. 4(2)(c)**; S.S.I. 2014/264, art. 2, sch.

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

- (1) A local authority <sup>F27</sup>and a registered social landlord] shall, in relation to all houses held by them for housing purposes, secure that in the selection of their tenants a reasonable preference is given—
  - (a) to persons who—
    - (i) are occupying houses which do not meet the tolerable standard; or
    - (ii) are occupying overcrowded houses; or
    - (iii) have large families; or
    - (iv) are living under unsatisfactory housing conditions; and

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[<sup>F28</sup>(b) [<sup>F29</sup>subject to subsection (1A),] to homeless persons and persons threatened with homelessness (within the meaning of Part II).]

[<sup>F30</sup>(1A) Homeless persons and persons threatened with homelessness (within the meaning of Part 2) are to be disregarded for the purposes of subsection (1) if they would not be such persons without the local authority having had regard to a restricted person (also within the meaning of Part 2).]

(2) In the allocation of [<sup>F31</sup>[<sup>F32</sup>such] housing][<sup>F31</sup>housing falling within subsection (1)] a [<sup>F33</sup>social landlord] —

(a) shall take no account of—

- (i) the length of time for which an applicant has resided in its area; or
- (ii) any outstanding liability (for payment of rent or otherwise) attributable to the tenancy of any house of which the applicant is not, and was not when the liability accrued, a tenant; or

[<sup>F34</sup>(iii) any liability (for payment of rent or otherwise) of the applicant which is attributable to the applicant's tenancy of a house but which is no longer outstanding; or

(iv) any such liability which is outstanding but in respect of which subsection (2A) is satisfied; or

(v) any outstanding liability of the applicant or of any person who it is proposed will reside with the applicant which is not attributable to the tenancy of a house; or

(vi) except to the extent permitted by subsection (2B), the age of the applicant provided that the applicant has attained the age of 16 years; or

(vii) the income of the applicant and his family; or

(viii) whether, or to what value, the applicant or any of his family owns or has owned (or any of them own or have owned) heritable or moveable property;]

[<sup>F35</sup>(aa) shall take no account of whether an applicant is resident in their area if the applicant—

(i) is employed, or has been offered employment, in the area; or

(ii) wishes to move into the area and they are satisfied that his purpose in doing so is to seek employment; or

(iii) wishes to move into the area to be near a relative or carer; or

(iv) has special social or medical reasons for requiring to be housed within the area; or

(v) is subject to conduct amounting to harassment (“conduct” and “harassment” being construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40)) and wishes to move into the area; or

(vi) runs the risk of domestic [<sup>F36</sup>abuse] (within the meaning of section 33(3)) and wishes to move into the area; and]

(b) shall not impose a requirement—

(i) that an application must have remained in force for a minimum period; or

(ii) that a divorce or judicial separation be obtained; or

[<sup>F37</sup>(ia) that a dissolution of a civil partnership or a decree of separation of civil partners be obtained, or]

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(iii) that the applicant no longer be living with, or in the same house as, some other person,

before the applicant is eligible for the allocation of housing.

[<sup>F38</sup>(2A) This subsection is satisfied in respect of an outstanding liability where—

- (a) the amount of the outstanding liability is not more than one twelfth of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy in question; or
- (b) the applicant—
  - (i) has agreed with the landlord an arrangement for paying the outstanding liability;
  - (ii) has made payments in accordance with that arrangement for at least three months; and
  - (iii) is continuing to make such payments.

(2B) A local authority and a registered social landlord may take into account the age of applicants in the allocation of—

- (a) houses which have been designed or substantially adapted for occupation by persons of a particular age group;
- (b) houses to persons who are or are to be in receipt of housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)) for persons of a particular age group.]

[<sup>F39</sup>(3) A member of a local authority shall be excluded from a decision on the allocation of local authority housing, or of housing in respect of which the local authority may nominate the tenant, where—

- (a) the house in question is situated; or
- (b) the applicant for the house in question resides,

in the electoral division or ward for which that member is elected.]

[<sup>F40</sup>(4) In the application of this section to registered social landlords, any reference to their area means the local authority area or areas, or the part of that area or those areas, in which the registered social landlord holds houses for housing purposes.]

#### Textual Amendments

- F27** Words in s. 20(1) inserted (1.4.2002) by 2001 asp 10, s. 10(2)(a); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)
- F28** S. 20(1)(b) substituted (1.4.2002) by 2001 asp 10, s. 10(2)(b); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)
- F29** Words in s. 20(1)(b) inserted (2.3.2009 for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 10(2); S.I. 2009/415, art. 3
- F30** S. 20(1A) inserted (2.3.2009 for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 10(3); S.I. 2009/415, art. 3
- F31** Words in s. 20(2) substituted (2.3.2009 for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 10(4); S.I. 2009/415, art. 3
- F32** Words in s. 20(2) substituted (1.4.2002) by 2001 asp 10, s. 10(3)(a); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)
- F33** Words in s. 20(2) substituted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(3)(a); S.S.I. 2014/264, art. 2, sch.
- F34** S. 20(2)(a)(iii)-(viii) substituted for s. 20(2)(a)(iii) (1.4.2002) by 2001 asp 10, s. 10(3)(e); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)

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- F35** S. 20(2)(aa) inserted (1.4.2002) by 2001 asp 10, s. 10(3)(d); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)
- F36** Word in s. 20(2)(aa)(vi) substituted (30.1.2004) by Homelessness etc. (Scotland) Act 2003 (asp 10), ss. 10(1), 14(1); S.S.I. 2003/609, art. 2
- F37** S. 20(2)(b)(iia) inserted (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(3)(b); S.S.I. 2014/264, art. 2, sch.
- F38** S. 20(2A)(2B) inserted (1.4.2002) by 2001 asp 10, s. 10(4); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)
- F39** S. 20(3) added (27.9.1993) by 1993 c. 28, s. 154; S.I. 1993/2163, art. 2 Sch. 1.
- F40** S. 20(4) inserted (1.4.2002) by 2001 asp 10, s. 10(5); S.S.I. 2002/168, art. 2, Sch. (subject to transitional provisions and savings in art. 3)

## [<sup>F41</sup>20B Determination of minimum period for application to remain in force

- (1) A social landlord may impose a requirement that an application must have remained in force for a minimum period before the applicant is eligible for the allocation of housing falling within section 20(1) if, before making that application, any of the circumstances mentioned—
  - (a) in subsection (6) applied in relation to the applicant, or
  - (b) in paragraphs (a) to (g) of subsection (6) applied in relation to a person who it is proposed will reside with the applicant.
- (2) But a social landlord may not impose a requirement under subsection (1) if the landlord—
  - (a) in relation to the same application has previously relied on the same circumstance as it applied to an applicant or a person who it is proposed will reside with the applicant to impose a requirement under subsection (1), or
  - (b) is a local authority and has a duty to the applicant under section 31(2) (duty to secure accommodation where applicant is homeless).
- (3) In considering whether to impose a requirement under subsection (1), a social landlord must have regard to any guidance about this section (including the matters mentioned in subsection (5)) published by the Scottish Ministers.
- (4) Before publishing any guidance mentioned in subsection (3), the Scottish Ministers must consult such persons as they consider appropriate.
- (5) The Scottish Ministers may by regulations prescribe—
  - (a) the maximum period preceding the application which a social landlord may consider in relation to any circumstances mentioned in subsection (6),
  - (b) the maximum period for an application to have remained in force which a social landlord may impose in relation to any circumstances mentioned in subsection (6), and such regulations may make different provision for different cases.
- (6) The circumstances are—
  - (a) the person has—
    - (i) acted in an antisocial manner in relation to another person residing in, visiting or otherwise engaged in lawful activity in the locality of a house occupied by the person,

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- (ii) pursued a course of conduct amounting to harassment of such other person, or a course of conduct which is otherwise antisocial conduct in relation to such other person, or
  - (iii) acted in an antisocial manner, or pursued a course of conduct which is antisocial conduct, in relation to an employee of the social landlord in the course of making the application,
  - (b) the person has been, or has resided with a person who has been, convicted of—
    - (i) using a house or allowing it to be used for immoral or illegal purposes, or
    - (ii) an offence punishable by imprisonment which was committed in, or in the locality of, a house occupied by the person,
  - (c) an order for recovery of possession has been made against the person in proceedings under—
    - (i) the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118),
    - (ii) the Housing Act 1985 (c.68),
    - (iii) this Act,
    - (iv) the Housing (Scotland) Act 1988 (c.43),
    - (v) the Housing (Scotland) Act 2001 (asp 10),
  - (d) the person's tenancy has been terminated by the landlord under section 18(2) of the Housing (Scotland) Act 2001 (repossession where abandoned tenancy),
  - (e) the person's interest in a tenancy has been terminated by the landlord under section 20(3) of the Housing (Scotland) Act 2001 (abandonment by joint tenant),
  - (f) in relation to a house where the person was a tenant, a court has ordered recovery of possession on the ground set out in paragraph 3 or 4 of schedule 2 to the Housing (Scotland) Act 2001,
  - (g) there is or was any outstanding liability (for payment of rent or otherwise) in relation to a house which—
    - (i) is attributable to the person's tenancy of the house, and
    - (ii) either—
      - (A) section 20(2A) would not be satisfied in respect of that debt, or
      - (B) in the case of a debt which is no longer outstanding, section 20(2A) would not have been satisfied at any time while that debt remained outstanding,
  - (h) the person knowingly or recklessly made a false statement in any application for housing held by a social landlord,
  - (i) the person has refused one or more offers of housing falling within section 20(1) and the landlord considers the refusal of that number of offers to be unreasonable.
- (7) In subsection (6)—
- “antisocial”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance,
  - “conduct” includes speech, and a course of conduct must involve conduct on at least two occasions, and
  - “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40).



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- (8) The Scottish Ministers may by regulations modify subsections (6) and (7).
- (9) After the social landlord imposes a requirement under subsection (1) (whether or not previously varied under this subsection), it may—
  - (a) withdraw the requirement, or
  - (b) vary the requirement in order to shorten the period imposed for the application to have remained in force.
- (10) An applicant may by summary application appeal to the sheriff against any decision of a social landlord under subsection (1).
- (11) Regulations under subsection (5) and under subsection (8) are subject to the affirmative procedure.]

**Textual Amendments**

**F41** S. 20B inserted (20.11.2014 for specified purposes) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 6\(2\), 104\(3\); S.S.I. 2014/264, art. 2, sch.](#)

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

- [<sup>F42</sup>(1) It shall be the duty—
  - (a) of every local authority to make and to publish in accordance with subsection (4), and again within 6 months of any alteration thereof, rules governing—
    - <sup>F43</sup>(i) .....
    - (ii) the priority of allocation of houses;
    - (iii) the transfer of tenants from houses owned by the landlord to houses owned by other bodies;
    - (iv) exchanges of houses;
  - <sup>F43</sup>(b) .....]
- (2) It shall be the duty of every registered [<sup>F44</sup>social landlord—
  - (a) to make rules governing the matters mentioned in subsection (1)(a)(ii) to (iv);]
  - (b) within 6 months of the making of rules under paragraph (a), and within 6 months of any alteration of such rules (whether or not made under that paragraph)—
    - (i) to send a copy of them to each of the bodies mentioned in subsection (3); and
    - (ii) to publish them in accordance with subsections (4) and (5).
- (3) The bodies referred to in subsection (2)(b)(i) are—
  - <sup>F45</sup>(i) .....
  - <sup>F46</sup>(ia) .....
  - (ii) every local authority within whose area there is a house let, or to be let, by [<sup>F47</sup>a registered social landlord under a Scottish] secure tenancy.
- [<sup>F48</sup>(3A) In making or altering its rules governing the priority of allocation of houses, a social landlord must have regard to—

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- (a) any local housing strategy (within the meaning of section 89(1)(b) of the Housing (Scotland) Act 2001) for its area, and
  - (b) any guidance published by the Scottish Ministers.
- (3B) Before publishing any guidance mentioned in subsection (3A), the Scottish Ministers must consult such persons as they consider appropriate.
- (3C) The Scottish Ministers may by regulations prescribe persons of a description or type who a social landlord must include in its rules governing the priority of allocation of houses.
- (3D) Regulations under subsection (3C) are subject to the affirmative procedure.]
- (4) The rules to be published by a body in accordance with subsection (1) or (2) shall be—
- (a) available for perusal; and
  - (b) on sale at a reasonable price; and
  - (c) available in summary form on request to members of the public, at all reasonable times—
- (i) in a case where the body is a local authority or a development corporation, at its principal offices and its housing department offices; and
  - (ii) in any other case, at its principal and other offices.
- (5) Rules sent to a local authority in accordance with subsection 2(b) shall be available for perusal at all reasonable times at its principal offices.
- (6) An applicant for housing provided by a body mentioned in subsection (1) or (2) shall be entitled on request to inspect any record kept by that body of information furnished by him to it in connection with his application.

#### Textual Amendments

- F42** S. 21(1) substituted (27.9.1993) by 1993 c. 28, s. 155(1); S.I. 1993/2163, art. 2, Sch. 1.
- F43** S. 21(1)(a)(i)(b) repealed (1.4.2002) by 2001 asp 10, s. 112, Sch. 10 para. 13(3)(a); S.S.I. 2002/168, art. 2, Sch. (with transitional provisions and savings in art. 3)
- F44** S. 21(2)(a) and words substituted (1.4.2002) by 2001 asp 10, s. 112, Sch. 10 para. 13(3)(b); S.S.I. 2002/168, art. 2, Sch. (with transitional provisions and savings in art. 3)
- F45** S. 21(3)(i) repealed (1.4.2002) by 2001 asp 10, s. 112, Sch. 10 para. 13(3)(c)(i); S.S.I. 2002/168, art. 2, Sch. (with transitional provisions and savings in art. 3)
- F46** S. 21(3)(ia) repealed (20.11.2014) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), sch. 2 para. 4(4); S.S.I. 2014/264, art. 2, sch.
- F47** Words in s. 21(3)(ii) substituted (1.4.2002) by 2001 asp 10, s. 112, Sch. 10 para. 13(3)(c)(iii); S.S.I. 2002/168, art. 2, Sch. (with transitional provisions and savings in art. 3)
- F48** S. 21(3A)-(3D) inserted (20.11.2014 for specified purposes) by Housing (Scotland) Act 2014 (asp 14), ss. 4(2), 104(3); S.S.I. 2014/264, art. 2, sch.

#### *Housing co-operatives*

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**Textual Amendments**

**F49** S. 22 repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(4)**; S.S.I. 2002/433, art. 2, **Sch.**

<sup>F50</sup>**22A** .....

**Textual Amendments**

**F50** S. 22A repealed (30.9.2002) by 2001 asp 10, s. 112, **Sch. 10 para. 13(4)**; S.S.I. 2002/433, art. 2, **Sch.**

*Powers of Scottish Special Housing Association*

[<sup>F51</sup>**23** **Improvement of amenities of residential area by development corporations.**

A development corporation may for the purpose of securing the improvement of the amenities of a predominantly residential area within its designated area—

- (a) carry out any works on land owned by it;
- (b) with the agreement of the owner of any land, carry out or arrange for the carrying out of works on that land at his or its expense or in part at the expense of both;
- (c) assist (whether by grants or loans or otherwise) in the carrying out of works on land not owned by it;
- (d) acquire any land by agreement.]

**Textual Amendments**

**F51** S. 23 substituted by **Housing (Scotland) Act 1988 (c. 43, SIF 61)**, ss. 1, 3, **Sch. 2 para. 8**

**Status:**

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