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# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART III

#### RIGHTS OF PUBLIC SECTOR TENANTS

VALID FROM 27/09/1993

*[<sup>F1</sup> Rent to loan scheme]*

#### Textual Amendments

**F1** Ss. 73A-73D and crossnote inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, Sch. 1.

#### <sup>F2</sup>73A The rent to loan scheme.

- (1) Under the rent to loan scheme, the price fixed for a house under section 62 shall be payable in two elements, viz—
  - (a) the initial capital payment; and
  - (b) the deferred financial commitment.
- (2) In the application of subsection (3) of section 62 to the price of a house being purchased by way of the rent to loan scheme, each of the percentage figures specified in that subsection shall be reduced by 15 or such other number as may, with the consent of the Treasury, be prescribed.
- (3) The conditions which are, under section 64, to be contained in an offer to sell under section 63(2) shall, in the case of a house which is to be purchased by way of the rent to loan scheme, include a condition providing that the tenant will be entitled to ownership of the house in exchange for the initial capital payment.

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- (4) The deferred financial commitment shall be secured by a standard security over the house.

**Textual Amendments**

**F2** Ss. 73A-73D inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, Sch. 1.

**<sup>F3</sup>73B The initial capital payment.**

- (1) The initial capital payment in respect of a house is a sum determined by the tenant, being of an amount not less than the maximum amount of loan which could be repaid at the statutory rate of interest over the loan period by weekly payments each equal to the adjusted weekly rent for the house.
- (2) In this section—
- (a) the “statutory rate of interest” is the rate of interest which would be charged under section 219(4) on the application date by the local authority for the area in which the house is situated;
  - (b) the “loan period” is the period beginning on the application date and ending on whichever of the following is the earlier—
    - (i) the expiry of a period of 25 years starting on that date; and
    - (ii) the date when the applicant will (if he survives) reach pensionable age within the meaning of the Social Security Act 1975 or, in the case of joint applicants, the date when the one who will (if they both or all survive) reach pensionable age later than the other or the others reaches that age,
 but if the period arrived at under sub-paragraph (ii) is less than 10 years, then the loan period shall be a period of 10 years beginning on the application date;
  - (c) the “adjusted weekly rent” is an amount equal to 90 per cent of the weekly rent for the house payable as at the application date; and
  - (d) the “application date” is the date of the application to purchase the house.

**Textual Amendments**

**F3** Ss. 73A-73D inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, Sch. 1.

**<sup>F4</sup>73C The deferred financial commitment.**

- (1) The deferred financial commitment in respect of a house is the sum arrived at by—
- (a) finding the difference between—
    - (i) the price which was fixed for the purchase of the house under section 62(1); and
    - (ii) the initial capital payment;
  - (b) expressing that difference as a percentage of the market value which was determined under section 62(2) for the purpose of fixing the price of the house;
  - (c) reducing that percentage figure by—

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- (i) 7 or such other number as may, with the consent of the Treasury, be prescribed; and
    - (ii) in a case where payment has been made under subsection (4), the percentage figure which the amount so paid represents in relation to the market value mentioned in paragraph (b);
  - (d) finding the sum which is equal to that resultant percentage of the resale value of the house; and
  - (e) in a case to which subsection (5) of section 73D applies, adding to that sum the amount which falls to be added under subsection (6) of that section.
- (2) No interest shall accrue on the deferred financial commitment.
- (3) Payment of the deferred financial commitment—
- (a) shall, subject to section 73D, be made to the original seller of the house—
    - (i) on the sale or other disposal of the house by the rent to loan purchaser; or
    - (ii) if the rent to loan purchaser does not sell or dispose of it, on his death; and
  - (b) may be so made in whole at any earlier time.
- (4) Subject to section 73D(3), payment may be made at any time for the purpose of reducing the deferred financial commitment in accordance with subsection (1)(c)(ii).
- (5) Subject to subsection (6), payment of the deferred financial commitment shall be made as soon as may be after the destruction of or damage to the house by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.
- (6) Subsection (5) does not apply where, following the destruction of or damage to a house, it is rebuilt or reinstated.
- (7) A standard security granted in security of the deferred financial commitment shall, notwithstanding section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970, have priority before any standard security securing the liability to make a repayment under section 72(1) but immediately after—
- (a) any standard security granted in security of any amount advanced by a recognised lending institution—
    - (i) to enable payment of the initial capital payment or payment under subsection (4);
    - (ii) for the improvement of the house; or
    - (iii) for any combination of those purposes,(together with any interest, expenses and outlays payable thereunder); and
  - (b) with the consent of the original seller, a standard security over the house granted in security of any other loan (together with any such interest, expenses and outlays).
- In this subsection—
- a “recognised lending institution” is one which is recognised for the purposes of section 222;
  - references to interest payable under a standard security are references both to present and future interest payable thereunder including interest which has accrued or may accrue; and

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references to expenses and outlays include interest thereon.

(8) In this section—

- (a) the “resale value” of a house is, subject to subsections (9) and (10)—
  - (i) where it is being sold by the rent to loan purchaser on the open market with vacant possession and a good and marketable title, the price at which it is being so sold;
  - (ii) where the rent to loan purchaser has died not having sold or disposed of it, its value for the purpose of confirmation to his estate;
  - (iii) in any other case, such amount as is agreed for the purposes of this sub-paragraph between the rent to loan purchaser and the original seller or, failing such agreement, such amount as is determined for those purposes by an independent valuer as the value of the house, assuming it to be available for sale in the circumstances specified in sub-paragraph (i) on a date as near as may be to the date when payment of the deferred financial commitment is to be made; and
- (b) the “original seller” of a house is the body which, as the landlord of the house, sold it in pursuance of this Part to the rent to loan purchaser or, where another body has succeeded to the rights and duties of that body in relation to the house, that other body.

(9) In arriving at the resale value of a house no account shall be taken of—

- (a) anything done by the rent to loan purchaser (or any predecessor of his as secure tenant of the house) which has added to the value of the house; or
- (b) any failure by him (but not by any such predecessor) to keep the house in good repair (including decorative repair).

(10) For the purposes of agreeing or determining the amount of the resale value of a house under subsection (8)(a)(iii) in a case where it has been destroyed or damaged by a cause referred to in subsection (5), that value shall be taken as including the value of any sums paid or falling to be paid to the rent to loan purchaser under a policy insuring against the risk of the cause of destruction of or damage to the house except to the extent that they have been or fall to be applied in meeting the cost of any rebuilding or reinstatement which has been carried out.

#### Textual Amendments

**F4** Ss. 73A-73D inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, Sch. 1.

#### <sup>F5</sup>73D Deferred financial commitment: further provisions.

(1) This subsection applies where—

- (a) the person who has purchased a house by way of the rent to loan scheme sells or otherwise disposes of it to his spouse or any other person with whom he is living as if they were husband and wife and the house is, at the time of the sale or disposal, the spouse’s or other person’s only or principal home;
  - (b) the person who has so purchased the house dies and there succeeds to the house, by operation of the law of succession, a person for whom or persons for whom or for one or more of whom the house was, for the period of 12 months immediately preceding the death, his or their only or principal home;
- or

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- (c) in the case of a house which was so purchased jointly, one of the joint purchasers dies and, at the time of the death, the house was the only or principal home of the survivor or the survivors or one or more of them.
- (2) Where subsection (1) applies—
- (a) the deferred financial commitment shall not be payable on the sale, disposal or death referred to in paragraph (a) of subsection (3) of section 73C but on the sale or other disposal of the house by the person or persons acquiring it, succeeding to it or surviving in the circumstances whereby subsection (1) applies or on the death of such person or of the last of them for whom the house was, both at the time of such acquisition, succession or survival and at the time of his death, his only or principal home; and
- (b) paragraph (b) of the said subsection (3) shall have effect accordingly.
- (3) A payment made under section 73C(4) shall not—
- (a) be less than £1500 or such other sum as may, with the consent of the Treasury, be prescribed;
- (b) exceed the statutory maximum; or
- (c) be made within the period of one year after any previous such payment in respect of the same transaction.
- (4) In subsection (3)(b), the “statutory maximum” is the amount by which the initial capital payment would be required to be augmented so as to produce, by operation of the calculations specified in paragraphs (a) to (c) of section 73C(1), a resultant percentage of 7.5% or such other percentage as may, with the consent of the Treasury, be prescribed.
- (5) This subsection applies where—
- (a) the subtraction of discount for the purposes of section 62(1) falls to be limited or excluded by operation of subsection (6A) of that section; and
- (b) any part of those costs which, in accordance with that subsection, are to be represented by an amount arrived at under that subsection, was incurred in the period commencing with the beginning of the financial year of the landlord which was current 5 years prior to the date of payment in whole of the deferred financial commitment.
- (6) Where subsection (5) applies, the amount which is, under section 73C(1)(e), to be added is an amount equal to the difference between the aggregate of the amounts mentioned in paragraph (a) and the amount mentioned in paragraph (b)—
- (a) the initial capital payment and the deferred financial commitment (including any payment under section 73C(4)) which would be payable apart from this subsection;
- (b) the price which would have been payable under section 62 had the purchase of the house proceeded otherwise than by way of the rent to loan scheme.]

#### Textual Amendments

**F5** Ss. 73A-73D inserted (27.9.1993) by 1993 c. 28, s. 142; S.I. 1993/2163, art. 2, Sch. 1.

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#### 74 Duties of landlords.

It shall be the duty of every landlord of a house to which sections 61 to 84 and section 216 apply to make provision for the progression of applications under those sections in such manner as may be necessary to enable any tenant who wishes to exercise his rights under this Part to do so, and to comply with any regulations which may be made by statutory instrument by the Secretary of State in that regard.

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

C1 S. 74 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, Sch. 1

#### 75 Agreements affecting right to purchase.

(1) Subject to sections 61(1), 67(1) and 72(1)—

- (a) no person exercising or seeking to exercise a right to purchase under section 61(1) shall be obliged, notwithstanding any agreement to the contrary, to make any payment to or lodge any deposit with the landlord which he would not have been obliged to make, or as the case may be lodge, had he not exercised (or sought to exercise) the right to purchase;
- (b) a landlord mentioned in section 61(2)(a)(i) or (ii) is required neither to enter into, nor to induce (or seek to induce) any person to enter into, such agreement as is mentioned in paragraph (a), or into any agreement which purports to restrict that person's rights under this Part.

(2) Paragraph (a) of subsection (1) does not apply to the expenses in any court proceedings.

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

C2 S. 75 modified (13.3.1992) by S.I. 1992/325, regs. 3, 5, 7, Sch. 1

#### [<sup>F6</sup>75A Duty of local authority landlord to provide information about right to buy.

- (1) A landlord which is one of those mentioned in section 61(2)(a)(i) or (ii) shall supply each of its secure tenants at least once every year with information about his right to purchase his house under this Part.
- (2) The information supplied under subsection (1) shall be in such form as the landlord considers best suited to explain in simple terms and so far as it considers appropriate the right referred to in that subsection.]

##### Textual Amendments

F6 S. 75A inserted (27.9.1993) by 1993 c. 28, s. 148; S.I. 1993/2163, art. 2, Sch. 1.

#### 76 Duty of landlords to provide information to secure tenants.

(1) Whenever a new secure tenancy is to be created, if—

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- (a) the landlord is [<sup>F7</sup>neither] the heritable proprietor of the house [<sup>F8</sup>nor holds the interest of the landlord under a registered lease of the house or of land which includes it]; or
  - (b) by virtue of section 61(4), the house is not one to which that section applies; or
  - [<sup>F9</sup>(c) section 62(6A) may affect any price fixed as regards the house under section 62(1),]
- the landlord shall so inform the prospective tenant by written notice.

(2) Where in the course of a secure tenancy the landlord ceases to be the [<sup>F10</sup>either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it] or the house, by virtue of section 61(4), ceases to be one to which that section applies, the landlord shall forthwith so inform the tenant by written notice.

(3) Subsections (1) and (2) do not apply if—

- (a) the landlord is a housing co-operative within the meaning of section 22, and
- (b) the heritable proprietor is a local authority [<sup>F11</sup>or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it.]

[<sup>F12</sup>(4) Where—

- (a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and
- (b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

(5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change.]

#### Textual Amendments

- F7** Word substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 178\(1\)\(a\)\(i\)](#)
- F8** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 178\(1\)\(a\)\(ii\)](#)
- F9** [S. 76\(1\)\(c\)](#) substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), s. 65\(5\)\(6\)](#)
- F10** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 178\(1\)\(b\)](#)
- F11** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 178\(1\)\(c\)](#)
- F12** [S. 76\(4\)\(5\)](#) added by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 181](#)

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