



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XIV

#### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

##### *Determination of entitlement*

#### **262 Application for assistance.**

A person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the local authority within the period specified in the relevant designation.

#### **263 Application not to be entertained where grant application pending or approved.**

- (1) The local authority shall not entertain an application for assistance under this Part if—
  - (a) an application has been made in respect of the defective dwelling (whether before or after the relevant designation came into operation) for a grant under Part XIII, and
  - (b) the relevant works in relation to that grant include the whole or part of the work required to reinstate the dwelling,unless the grant application has been refused or has been withdrawn under subsection (2) or the relevant works have been completed.
- (2) Where a person has applied for such a grant in respect of a dwelling and—
  - (a) the dwelling is a defective dwelling, and
  - (b) the relevant works include the whole or part of the work required to reinstate it,he may withdraw his application, whether or not it has been approved, if the relevant works have not been begun.
- (3) In this section “relevant works”, in relation to a grant, means works of improvement or repair within the meaning of Part XIII.

*Status: Point in time view as at 01/02/1991.*

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**264 Determination of eligibility.**

- (1) A local authority receiving an application for assistance under this Part shall as soon as reasonably practicable give notice in writing to the applicant stating whether in their opinion he is eligible for assistance in respect of the defective dwelling.
- (2) If they are of opinion that he is not so eligible, the notice shall state the reasons for their view.
- (3) If they are of opinion that he is so eligible, the notice shall inform him of his right to make such a claim as is mentioned in section 265(2) (claim that assistance by way of reinstatement grant is inappropriate in his case).

**265 Determination of form of assistance to which applicant is entitled.**

- (1) A local authority receiving an application for assistance under this Part shall, if the applicant is eligible for assistance, determine [<sup>F1</sup>as soon as reasonably practicable] whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.
- (2) If the authority are satisfied, on a claim by the applicant to that effect, that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the applicant is entitled to assistance by way of repurchase.
- (3) Subject to subsection (2), the applicant is entitled to assistance by way of reinstatement grant if the authority are satisfied that the conditions for such assistance set out in section 266 are met, and otherwise to assistance by way of repurchase.

**Textual Amendments**

**F1** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 166\(2\)](#)

**266 Conditions for assistance by way of reinstatement grant.**

- (1) The conditions for assistance by way of reinstatement grant are, subject to any order under subsection (2)—
  - (a) that the dwelling is a house (as defined in section 302);
  - (b) that if the work required to reinstate the dwelling (together with any other work which the local authority are satisfied the applicant proposes to carry out) were carried out—
    - (i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and
    - (ii) an individual acquiring ownership of the dwelling with vacant possession would be likely to be able to obtain a loan on the security of it on satisfactory terms from a lending institution;
  - (c) that giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling and, on the other hand, to the likely value of the dwelling with vacant possession after the work required to reinstate it has been carried out; and
  - (d) .....

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- (2) The Secretary of State may by order amend the conditions set out in subsection (1) so as to modify or omit any of the conditions or to add or substitute for any of the conditions other conditions.
- (3) An order—
  - (a) may make different provision for different classes of case,
  - (b) shall be made by statutory instrument, and
  - (c) shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (4) An order does not affect an application for assistance made before the order comes into force.

#### Textual Amendments

**F2** S. 266(1)(d) repealed by S.I. 1988/978, art. 2

### 267 Meaning of “work required for reinstatement” and “associated arrangement”.

- (1) For the purposes of this Part the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists of or includes the dwelling in order to deal satisfactorily with the qualifying defect, together with any further work—

[<sup>F3</sup>(1A) In any case where—

- (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
- (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.]

- (a) required to be done, in order to deal satisfactorily with the qualifying defect, to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, or
  - (b) reasonably required in connection with other work falling within this subsection.
- (2) In this Part, “associated arrangement” means an arrangement which is entered into in connection with the execution of the work required to reinstate a defective dwelling and is likely to contribute towards the dwelling being regarded as an acceptable security by a lending institution.

#### Textual Amendments

**F3** S. 267(1A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 61), s. 166(3)

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## 268 Notice of determination.

- (1) Where an applicant is eligible for assistance, the authority to whom the application was made shall as soon as reasonably practicable give him notice in writing (a “notice of determination”) stating the form of assistance to which he is entitled.
- (2) If, on such a claim by the applicant as is mentioned in section 265(2) (claim that assistance by way of reinstatement grant is inappropriate in his case), the authority are not satisfied that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling, the notice shall state the reasons for their view.
- (3) A notice stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—
  - (a) the grounds for the authority’s determination;
  - (b) the work which, in their opinion, is required to reinstate the defective dwelling;
  - (c) the amount of expenditure which, in their opinion, may properly be incurred in executing the work;
  - (d) the amount of expenditure which, in their opinion, may properly be incurred in entering into an associated arrangement;
  - (e) the condition required by section 270 (execution of work to satisfaction of authority within specified period), including the period within which the work is to be carried out; and
  - (f) their estimate of the amount of grant payable in respect of the dwelling in pursuance of this Part.
- (4) A notice stating that the applicant is entitled to assistance by way of repurchase shall also state the grounds for the authority’s determination and the effect of—
  - (a) paragraphs [F42, 3 and 7] of Schedule 20 (request for notice of proposed terms of repurchase), and
  - (b) sections [F4282, 284 and 285] (provisions for grant of tenancy to former owner-occupier of repurchased dwelling).
- (5) References in the following provisions of this Part to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase are to a person who is eligible for assistance in respect of the dwelling and on whom a notice of determination has been served stating that he is entitled to that form of assistance.

### Textual Amendments

**F4** Words substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 19](#)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

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