



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XIV **S**

#### ASSISTANCE FOR OWNERS OF DEFECTIVE HOUSING

##### *Supplementary provisions*

#### **298** Service of notices. **S**

- (1) A notice or other document under this Part may be given to or served on a person, and an application or written request under this Part may be made to a person—
- (a) by delivering it to him or leaving it at his proper address, or
  - (b) by sending it to him by post,
- and also, where the person concerned is a body corporate, by giving or making it to or serving it on the secretary of that body.
- (2) For the purposes of this section, and of section 7 of the <sup>M1</sup>Interpretation Act 1978 as it applies for the purposes of this section, the proper address of a person is—
- (a) in the case of a body corporate or its secretary, the address of the principal office of the body,
  - (b) in any other case, his last known address)
- and also, where an additional address for service has been specified by that person in a notice under section 276(2) (notice of intention to assume responsibility for repurchase), that address.

#### **Marginal Citations**

**M1** 1978 c. 30.

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## 299 Jurisdiction of sheriff in Scotland. **S**

- (1) A sheriff of the sheriff court district within which the defective dwelling is situated has jurisdiction—
  - (a) to determine any question arising under this Part; and
  - (b) to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed.
- (2) Subsection (1) has effect subject to—
  - (a) sections 257(6) and 287(6) (questions of designation to be decided by designating authority),
  - (b) section 279(3) and <sup>[F1]</sup>paragraph 11(1) of Schedule 20] (questions of valuation to be determined by district valuer).
- (3) Where an authority required by section 270(3) or paragraph 7 of Schedule 20 to extend or further extend any period fail to do so, the sheriff may extend or further extend that period until such date as he may specify.
- <sup>[F2]</sup>(4) Where damages are awarded in proceedings commenced before 1st December 1994 which arise out of a failure on the part of the public sector authority to give a person acquiring a relevant interest in a dwelling notice in writing under section 291, the amount of damages for the purposes of this subsection shall be equal to the difference between—
  - (a) the market value of the dwelling assessed as if it were not a defective dwelling and were available for sale on the open market with vacant possession; and
  - (b) the market value of the dwelling assessed as a defective dwelling and as if available for sale on the open market with vacant possession.
- (5) Subsection (4) applies in relation to proceedings which arise out of a failure by the authority before the coming into force of section 156 of the Leasehold Reform, Housing and Urban Development Act 1993 as it does to proceedings which arise out of a failure by the authority after that date.]

### Textual Amendments

- F1** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c.43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 26](#)
- F2** S. 299(4)(5) added (27.9.1993) by [1993 c. 28, s. 156](#); [S.I. 1993/2163](#), art. 2, [Sch. 1](#).

## 300 Meaning of “public sector authority”. **S**

- (1) In this Part—
  - (a) “public sector authority” means—
    - a <sup>[F3]</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] (or a predecessor of such a council),
    - a joint board and a joint committee of which every constituent member is, or is appointed by, such a council or predecessor of such a council,
    - <sup>[F4]</sup>Scottish Water],
    - the Housing Corporation,

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- the Scottish Special Housing Association,  
a registered housing association other than a co-operative housing association  
(or a predecessor housing association of such an association),  
a development corporation,  
the National Coal Board, or  
the United Kingdom Atomic Energy Authority,  
or a body corporate or housing association specified by order of the Secretary of State  
in accordance with the following provisions;
- (b) “co-operative housing association” means a fully mutual housing association  
which is a society registered under the <sup>M2</sup>Industrial and Provident Societies  
Act 1965, and “fully mutual”, in relation to a housing association, means that  
the rules of the association—
- (i) restrict membership to persons who are tenants or prospective tenants  
of the association, and
- (ii) preclude the granting or assignation of tenancies to persons other than  
members.
- (2) The Secretary of State may provide that a body corporate shall be treated as a public  
sector authority if he is satisfied—
- (a) that the affairs of the body are managed by its members, and
- (b) that its members hold office by virtue of appointment (to that or another office)  
by a Minister of the Crown under an enactment,  
or if he is satisfied that it is a subsidiary of such a body.
- (3) The Secretary of State may provide that a housing association shall be treated as a  
public sector authority if he is satisfied that the objects or powers of the association  
include the provision of housing accommodation for individuals employed at any time  
by a public sector authority or dependants of such individuals.
- (4) Where the Secretary of State is satisfied that a body or association met the  
requirements of subsection (2) or (3) during any period, he may, whether or not he  
makes an order in respect of the body or association under that subsection, provide  
that it shall be treated as having been a public sector authority during that period.
- (5) If the Secretary of State is satisfied that a body or association specified in an order  
under subsection (2) or (3) has ceased to meet the requirements of that subsection on  
any date, he may by order provide that it shall be treated as having ceased to be a  
public sector authority on that date.
- (6) An order under this section shall be made by statutory instrument.

#### Textual Amendments

- F3** Words in s. 300(1)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 152(6)**; S.I. 1996/323, **art. 4**
- F4** Words in s. 300(1)(a) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 18(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to savings in art. 3)

#### Marginal Citations

- M2** 1965 c. 12.

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### 301 Disposal of certain Crown interests in land treated as disposal by public sector authority. **S**

References in this Part to a disposal of an interest in a dwelling by a public sector authority include a disposal of—

- (a) an interest belonging to Her Majesty in right of the Crown,
- (b) an interest belonging to, or held in trust for Her Majesty for the purposes of, a government department or Minister of the Crown.

### 302 Meaning of “dwelling” and “house”. **S**

- (1) In this Part, “dwelling” means any house, flat or other unit designed or adapted for living in.
- (2) For the purposes of this Part a building so designed or adapted is a “house” if it is a structure reasonably so called; so that where a building is divided into units so designed or adapted—
  - (a) if it is so divided horizontally, or a material part of a unit lies above or below another unit, the units are not houses (though the building as a whole may be), and
  - (b) if it is so divided vertically, the units may be houses.
- (3) Where a house which is divided into flats or other units is a defective dwelling in respect of which a person is eligible for assistance, the fact that it is so divided shall be disregarded for the purposes of section 266(1)(a) (first condition for assistance by way of reinstatement: that the dwelling is a house).

### 303 Interpretation. **S**

In this Part—

- “associated arrangement” has the meaning given by section 267(2);
- “cut-off date” is to be construed in accordance with section 257(2) or, as the case may be, 287(3);
- “defective dwelling” is to be construed in accordance with section 257(2) or, as the case may be, 287(3);
- “interest in dwelling” includes an interest in land which is or includes the dwelling;
- “lending institution” means a building society, a bank or an insurance company;
- “person entitled to assistance” (by way of reinstatement grant or repurchase) is to be construed in accordance with section 268(5);
- “public sector authority” has the meaning given by section 300;
- “purchasing authority” is to be construed in accordance with section 276(3);
- “qualifying defect” is to be construed in accordance with section 257(2) or, as the case may be, section 287(3);
- “relevant interest” means the interest of the owner;
- “work required to reinstate a defective dwelling” is to be construed in accordance with section 267(1).

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**Changes to legislation:**

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