



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XV

#### COMPENSATION PAYMENTS

##### *Payments for well-maintained houses.*

#### **304 Payments in respect of well-maintained houses subject to closing orders etc.**

(1) If—

- (a) a house has been vacated in pursuance of a closing order or a demolition order, or purchased compulsorily under section 121 instead of the making of a closing order or a demolition order in respect of the building in which it is comprised; and
- (b) any person has, within 3 months after the service of the closing order or demolition order, or of the notice of determination to purchase required by section 121(3), or after the confirmation of a compulsory purchase order, made a representation to the local authority that the house has been well maintained and that the good maintenance of the house is attributable wholly or partly to work carried out by him or at his expenses; and
- (c) leaving out of account any defects in the house in respect of any such matters as are mentioned in section 86, the representation is correct;

the local authority shall make to that person in respect of that house a payment calculated in accordance with section 306.

(2) If, on receiving a representation under subsection (1), the local authority consider that the condition specified in paragraph (c) of that subsection is not satisfied, they shall serve on the person by whom the representation was made notice that no payment falls to be made to him under that subsection.

(3) For the purposes of this section, a house comprised in a building which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition

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given to the local authority shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was given.

**305 Payments in respect of well-maintained houses subject to compulsory purchase as not meeting the tolerable standard.**

- (1) Where as respects a house which is made the subject of a compulsory purchase order under Part IV as not meeting the tolerable standard, the local authority are satisfied that it has been well maintained, they shall make a payment calculated in accordance with section 306 in respect of the house.
- (2) A payment under this section shall be made—
  - (a) if the house is occupied by an owner thereof, to him, or
  - (b) if the house is not so occupied, to the person or persons liable to maintain and repair the house, and, if more than one person is so liable, in such shares as the local authority think equitable in the circumstances:

Provided that, if any other person satisfies the local authority that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the authority may, if it appears to them to be equitable in the circumstances, make the payment, in whole or in part to him.

- (3) The local authority shall, along with the notice which they serve on any person under paragraph 3(b) of Schedule 1 to the <sup>M1</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 in respect of the compulsory purchase of a house under Part IV, enclose a notice stating, subject to the calculation to be made under section 306, whether or not they intend to make a payment under this section in respect of the house.
- (4) Any person aggrieved by a notice under subsection (3) which states that the local authority do not intend to make a payment under this section in respect of a house may, within 21 days of service on him of that notice, refer the matter to the Secretary of State; and the Secretary of State may, if he thinks it appropriate to do so (after, if he considers it necessary, causing the house to be inspected by one of his officers), direct the local authority to make such a payment.

**Marginal Citations**

**M1** 1947 c. 42.

**306 Calculation of amount payable for well- maintained houses.**

- (1) This section shall apply in relation to any payment in respect of a well maintained house under section 304 or section 305.
- (2) Subject to subsection (4), a payment to which this section applies shall be of an amount equal to the rateable value of the house multiplied by such multiplier as may from time to time be specified in an order made by the Secretary of State.
- (3) An order made under subsection (2) shall be made by statutory instrument which shall be of no effect unless it is approved by a resolution of each House of Parliament.
- (4) A payment to which this section applies shall not in any case exceed the amount (if any) by which the full compulsory purchase value of the house exceeds the restricted value thereof; and any question as to such value shall be determined, in default of

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agreement, as if it had been a question of disputed compensation arising on such a purchase.

(5) Where a payment falls to be made in respect of any interest in a house under section 308, no payment shall be made in respect of that house under section 304 or 305.

(6) In this section—

“full compulsory purchase value” has the same meaning as in section 311(2);

“rateable value” means the rateable value entered in the valuation roll last authenticated prior to the relevant date;

“restricted value” has the same meaning as in section 311(2); and

“the relevant date” in relation to any payment made with respect to any house means—

- (a) if the house was purchased compulsorily in pursuance of a notice served under section 121, the date when the notice was served;
- (b) if the house was vacated in pursuance of a demolition order or a closing order, or was declared not to meet the tolerable standard by an order under paragraph 2(1) of Schedule 2 to the <sup>M2</sup>Land Compensation (Scotland) Act 1963, the date when the order was made.

#### Marginal Citations

M2 1963 c. 51.

### *Repayment of certain payments*

#### **307 Repayment of payments made in connection with closing or demolition order when revoked.**

Where a payment in respect of a house has been made by a local authority under section 304, 305 or 308 in connection with a demolition order or a closing order and, the demolition order or the closing order is revoked by an order under section 116, then if at any time the person to whom the payment was made is entitled to an interest in the house (within the meaning of section 311(2)), he shall on demand repay the payment to the authority.

### *Payments for houses not meeting tolerable standard*

#### **308 Right to and amount of payments for house not meeting tolerable standard.**

(1) Where a house has been purchased at restricted value in pursuance of a compulsory purchase order made by virtue of [F1section 121], or in pursuance of an order under paragraph 2(1) of Schedule 2 to the Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order under section 115 or a closing order under section 114 or 119, then if—

- (a) on the relevant date and throughout the qualifying period the house was occupied as a private dwelling, and the person so occupying the house (or, if during that period it was so occupied by two or more persons in succession,

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- each of those persons) was a person entitled to an interest in that house or a member of the family of a person so entitled, and
- (b) the full compulsory purchase value of the interest is greater than its restricted value,
- the authority concerned shall make in respect of that interest a payment of an amount equal to the difference between the full compulsory purchase value and the restricted value.
- (2) Any question as to the values referred to in subsection (1) shall be determined, in default of agreement, as if it had been a question of disputed compensation arising on such a purchase.
- (3) Where an interest in a house purchased or vacated as described in subsection (1) was acquired by any person (in this subsection referred to as the first owner) on or after 1st August 1968 and less than 2 years before the relevant date, and a payment under the said subsection (1) in respect of that interest would have fallen to be made by the authority concerned had the qualifying period been a period beginning with the acquisition and ending with the relevant date, the authority concerned shall make to the person who was entitled to the interest at the date when the house was purchased or vacated a payment of the like amount, if—
- (a) the authority are satisfied that before acquiring the interest the first owner had made all reasonable inquiries to ascertain whether it was likely that the notice, resolution or order, by reference to which the relevant date is defined in section 311 would be served, passed or made within 2 years of the acquisition and that he had no reason to believe that it was likely; and
- (b) the person entitled to the interest at the date when the house was purchased or vacated was the first owner or a member of his family.

#### Textual Amendments

- F1** Words in s. 308(1) substituted (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 11](#) (with s. 193); [S.S.I. 2009/122](#), art. 3

### **309 Right of parties to certain agreements secured on, or related to, houses not meeting the tolerable standard to apply to sheriff for adjustment of the agreements.**

- (1) This section shall apply whether or not a payment falls to be made in respect of an interest in a house under section 308 where a house is purchased at restricted value in pursuance of a compulsory purchase order made by virtue of section <sup>F2</sup>... 120 or 121, or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the <sup>M3</sup>Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order or a closing order, and on the date of the making of the compulsory purchase or other order the house is occupied in whole or part as a private dwelling by a person who throughout the relevant period—
- (a) holds an interest in the house, being an interest subject to a heritable security or charge, or
- (b) is a party to an agreement to purchase the house by instalments.
- (2) Where the provisions of subsection (1) apply in the case of any house, any party to the heritable security, charge or agreement in question may apply to the sheriff who,

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after giving to other parties an opportunity of being heard, may, if he thinks fit, make an order—

- (a) in the case of a house which has been purchased compulsorily, discharging or modifying any outstanding liabilities of the person having an interest in the house, being liabilities arising by virtue of any bond or other obligation with respect to the debt secured by the heritable security or charge, or by virtue of the agreement, or
- (b) in the case of a house vacated in pursuance of a demolition order, or closing order, discharging or modifying the terms of the heritable security, charge or agreement,

and, in either case, either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the sheriff may think just.

(3) In determining in any case what order, if any, to make under this section, the sheriff shall have regard to all the circumstances of the case, and in particular—

- (a) in the case of a heritable security or charge—
  - (i) to whether the heritable creditor or person entitled to the benefit of the charge acted reasonably in advancing the principal sum on the terms of the heritable security or charge; and in relation to this subparagraph he shall be deemed to have acted unreasonably if, at the time when the heritable security or charge was created, he knew or ought to have known that in all the circumstances of the case the terms of the heritable security or charge did not afford sufficient security for the principal sum advanced, and
  - (ii) where the heritable security or charge secures a sum which represents all or any part of the purchase price payable for the interest, to whether the purchase price was excessive, or
- (b) in the case of an agreement to purchase by instalments, to how far the amount already paid by way of principal, or, where the house has been purchased compulsorily, the aggregate of that amount and so much, if any, of the compensation in respect of compulsory purchase as falls to be paid to the seller, represents a fair price for the purchase.

(4) In this section “the relevant period” means the period from the date of the making of the compulsory purchase or other order to—

- (a) in the case of a compulsory purchase order, the date of service of notice to treat (or deemed service of notice to treat) for purchase of the house or, if the purchase is effected without service of notice to treat, the date of completion of that purchase, and
- (b) in the case of any other order, the date of vacation of the house in pursuance of the order or of an order deemed to have been made and served in the terms of the next following subsection;

or, if the person referred to in subsection (1) dies before the date specified in paragraph (a) or (b), to the date of death.

(5) For the purposes of this section, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority, shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was given.

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#### Textual Amendments

**F2** Word in s. 309(1) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3

#### Marginal Citations

**M3** 1963 c. 51.

### 310 Provisions as to house subject to heritable security or purchased by instalments.

Section 309 (right of parties to certain agreements secured on, or related to, houses not meeting tolerable standard to apply to sheriff for adjustment of agreements) shall apply, whether or not a payment falls to be made in respect of an interest in a house under section 308, where the house not meeting the tolerable standard is purchased at restricted value in pursuance of a compulsory purchase order made by virtue of section <sup>F3</sup>... 120 or 121 or paragraph 5 of Schedule 8, or in pursuance of an order under paragraph 2(1) of Schedule 2 to the <sup>M4</sup>Land Compensation (Scotland) Act 1963, or has been vacated in pursuance of a demolition order or a closing order as it applies where a house has been purchased or vacated before 25th August 1969 as described in section 309.

#### Textual Amendments

**F3** Word in s. 310 repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3

#### Marginal Citations

**M4** 1963 c. 51.

### 311 Interpretation of sections 308 to 310.

(1) In section 308, in relation to any house purchased or vacated, “the relevant date” and “the authority concerned” mean respectively—

- (a) if the house was purchased compulsorily in pursuance of a notice served under section 121, the date when and the authority by whom the notice was served;
- <sup>F4</sup>(b) if the house is in a housing renewal area (within the meaning of the [Housing \(Scotland\) Act 2006 \(asp 1\)](#)), the date on which the order designating it was made under section 1 of that Act of 2006 and the authority which made it;
- (c) if the house was declared not to meet the tolerable standard by an order under paragraph 2(1) of Schedule 2 to the <sup>M5</sup>Land Compensation (Scotland) Act 1963, the date when the order was made and the acquiring authority within the meaning of that Act;
- (d) if the house was vacated in pursuance of a demolition order or closing order, the date when and the authority by whom the order was made;
- <sup>F5</sup>(e) .....

and “the qualifying period” means the period of 2 years ending with the relevant date, except that where that date is earlier than 31st July 1970, it means the period beginning with 1st August 1968 and ending with the relevant date.

(2) In sections 308 to 310—

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“full compulsory purchase value”, in relation to any interest in a house, means the compensation which would be payable in respect of the compulsory purchase of that interest if the house were not being dealt with under Part IV or Part VI as not meeting the tolerable standard, and, in the case of a house subject to a demolition order or closing order, the making of that order were a service of the notice to treat;

“interest” in a house does not include the interest of a tenant for a year or any less period or of a statutory tenant within the meaning of the <sup>M6</sup>Rent (Scotland) Act 1984 [<sup>F6</sup>or of a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988];

“restricted value”, in relation to the compulsory purchase of a house, means compensation in respect thereof assessed under or by virtue of section 120 or 121 or Part III of Schedule 8.

- (3) For the purposes of section 308, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority having power to make the order shall be deemed to have been vacated in pursuance of a demolition order made and served by that authority at the date when the undertaking was given.

#### Textual Amendments

- F4** S. 311(1)(b) substituted (1.4.2009) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 6 para. 12](#) (with s. 193); [S.S.I. 2009/122](#), art. 3 (with art. 7)
- F5** S. 311(1)(e) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3
- F6** Words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(2), [Sch. 9 para. 18](#)

#### Marginal Citations

- M5** 1963 c. 51.
- M6** 1984 c. 58.

### *Payments to other local authorities*

#### **312 Payment of purchase money or compensation by one local authority to another.**

- (1) Any purchase money or compensation payable by a local authority under this Act in respect of any land, right or interest of another local authority which would but for this section be paid into a bank as provided by the Lands Clauses Acts may be otherwise paid and applied as the Secretary of State approves and determines.
- (2) A determination of the Secretary of State under this section shall be final and conclusive.

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