



Housing Act 1988

1988 CHAPTER 50

PART III

HOUSING ACTION TRUST AREAS

Modifications etc. (not altering text)

C1 Pt. III (ss. 60-92) amended (24.9.1996) by 1996 c. 52, ss. 221(1)(e), 232(2)

Areas and trusts

60 **Housing action trust areas.**

- (1) Subject to section 61 below, the Secretary of State may by order designate an area of land for which, in his opinion, it is expedient that a corporation, to be known as a housing action trust, having the functions specified in this Part of this Act, should be established.
- (2) The area designated by an order under this section may comprise two or more parcels of land which—
 - (a) need not be contiguous; and
 - (b) need not be in the district of the same local housing authority.
- (3) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) In deciding whether to make an order under this section designating any area of land, the Secretary of State shall have regard to such matters as he thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, among the matters to which the Secretary of State may have regard in deciding whether to include a particular area of land in an order under this section, are—

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- (a) the extent to which the housing accommodation in the area as a whole is occupied by tenants or owner-occupiers and the extent to which it is local authority housing;
 - (b) the physical state and design of the housing accommodation in the area and any need to repair or improve it;
 - (c) the way in which the local authority housing in the area is being managed; and
 - (d) the living conditions of those who live in the area and the social conditions and general environment of the area.
- (6) An area designated by an order under this section shall be known as a housing action trust area and in the following provisions of this Part of this Act—
- (a) such an area is referred to as a “designated area”; and
 - (b) an order under this section is referred to as a “designation order”.

61 Consultation and publicity.

- (1) Before making a designation order, the Secretary of State shall consult every local housing authority any part of whose district is to be included in the proposed designated area.
- (2) Where the Secretary of State is considering a proposal to make a designation order, he shall use his best endeavours to secure that notice of the proposal is given to all tenants of houses in the area proposed to be designated who are either secure tenants [F1 or introductory tenants] or tenants of such description as may be prescribed by regulations.
- (3) After having taken the action required by subsection (2) above, the Secretary of State shall either—
 - (a) make arrangements for such independent persons as appear to him to be appropriate to conduct, in such manner as seems best to them, a ballot or poll of the tenants who have been given notice of the proposal as mentioned in that subsection with a view to establishing their opinions about the proposal to make a designation order; or
 - (b) if it seems appropriate to him to do so, arrange for the conduct of a ballot or poll of those tenants in such manner as appears to him best suited to establish their opinions about the proposal.
- (4) If it appears from a ballot or poll conducted as mentioned in subsection (3) above that a majority of the tenants who, on that ballot or poll, express an opinion about the proposal to make the designation order are opposed to it, the Secretary of State shall not make the order proposed.
- (5) The power to make regulations under subsection (2) above shall be exercisable by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Consultation undertaken before the passing of this Act shall constitute as effective compliance with subsection (1) above as if undertaken after that passing.

Textual Amendments

F1 Words in s. 61(2) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(a)

Status: Point in time view as at 26/03/2001.

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62 Housing action trusts.

- (1) Subject to subsection (2) below, where the Secretary of State makes a designation order, he shall, in that order or by a separate order, either—
 - (a) establish a housing action trust for the designated area; or
 - (b) specify as the housing action trust for the designated area a housing action trust already established for another designated area.
- (2) Such a separate order as is referred to in subsection (1) above shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Subject to subsection (4) below, a housing action trust shall be a body corporate by such name as may be prescribed by the order establishing it.
- (4) Where the Secretary of State makes the provision referred to in subsection (1)(b) above,—
 - (a) the housing action trust specified in the order shall, by virtue of the order, be treated as established for the new designated area (as well as for any designated area for which it is already established); and
 - (b) the order may alter the name of the trust to take account of the addition of the new designated area.
- (5) Schedule 7 to this Act shall have effect with respect to the constitution of housing action trusts and Schedule 8 to this Act shall have effect with respect to their finances.
- (6) It is hereby declared that a housing action trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and that the trust's property is not to be regarded as the property of, or property held on behalf of, the Crown.
- (7) At the end of section 4 of the ^{M1}Housing Act 1985 (descriptions of authority) there shall be added—
 - “(f) “housing action trust” means a housing action trust established under Part III of the Housing Act 1988”; and at the end of section 14 of the ^{M2}Rent Act 1977 (landlord's interest belonging to local authority etc.) there shall be added—
 - “(h) a housing action trust established under Part III of the Housing Act 1988”.

Marginal Citations

M1 1985 c. 68.

M2 1977 c. 42.

63 Objects and general powers of housing action trusts.

- (1) The primary objects of a housing action trust in relation to the designated area for which it is established shall be—
 - (a) to secure the repair or improvement of housing accommodation for the time being held by the trust;

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- (b) to secure the proper and effective management and use of that housing accommodation;
 - (c) to encourage diversity in the interests by virtue of which housing accommodation in the area is occupied and, in the case of accommodation which is occupied under tenancies, diversity in the identity of the landlords; and
 - (d) generally to secure or facilitate the improvement of living conditions [^{F2}of those living] in the area and the social conditions and general environment of the area.
- (2) Without prejudice to subsection (1) above, a housing action trust may—
- (a) provide and maintain housing accommodation; and
 - (b) facilitate the provision of shops, advice centres and other facilities for the benefit of the community or communities who live in the designated area.
- [^{F3}(2A) For the avoidance of doubt it is hereby declared that it is immaterial for the purposes of this section whether action taken by a housing action trust for achieving its objects or exercising the powers conferred on it by subsection (2) above also—
- (a) benefits persons who do not live in the designated area; or
 - (b) improves the social conditions or general environment of an area outside the designated area.]
- (3) For the purpose of achieving its objects and exercising the powers conferred on it by subsection (2) above, a housing action trust may—
- (a) acquire, hold, manage, reclaim and dispose of land and other property;
 - (b) carry out building and other operations;
 - (c) seek to ensure the provision of water, electricity, gas, sewerage and other services; and
 - (d) carry on any business or undertaking;
- and may generally do anything necessary or expedient for the purposes of those objects and powers or for purposes incidental thereto.
- (4) For the avoidance of doubt it is hereby declared that subsection (3) above relates only to the capacity of a housing action trust as a statutory corporation; and nothing in this section authorises such a trust to disregard any enactment or rule of law.
- (5) Section 71 of the ^{M3}Race Relations Act 1976 (local authorities: general statutory duty) shall apply to a housing action trust as it applies to a local authority.
- (6) A transaction between any person and a housing action trust shall not be invalidated by reason of any failure by the trust to observe the objects in subsection (1) above or the requirement that the trust shall exercise the powers conferred by subsections (2) and (3) above for the purpose referred to in that subsection.

Textual Amendments

- F2** Words in s. 63(1)(d) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. IV para. 25(1)(a)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)
- F3** S. 63(2A) inserted (1.10.1996) by 1996 c. 52, s. 222, **Sch. 18 Pt. IV para. 25(1)(b)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)

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Marginal Citations

M3 1976 c. 74.

64 The housing action trust's proposals for its area.

- (1) As soon as practicable after a housing action trust has been established for a designated area, the trust shall prepare a statement of its proposals with regard to the exercise of its functions in [F4relation to] the area.
- (2) The trust shall consult every local housing authority or county council, any part of whose area lies within the designated area, with regard to the proposals contained in the statement prepared under subsection (1) above.
- (3) A housing action trust shall take such steps as it considers appropriate to secure—
 - (a) that adequate publicity is given in the designated area to the proposals contained in the statement prepared under subsection (1) above;
 - (b) that those who live in the designated area are made aware that they have an opportunity to make, within such time as the trust may specify, representations to the trust with respect to those proposals; and
 - (c) that those who live in the designated area are given an adequate opportunity of making such representations;and the trust shall consider any such representations as may be made within the time specified.
- (4) As soon as may be after a housing action trust has complied with the requirements of subsections (1) to (3) above it shall send to the Secretary of State a copy of the statement prepared under subsection (1) above together with a report of—
 - (a) the steps the trust has taken to consult as mentioned in subsection (2) above and to secure the matters referred to in subsection (3) above; and
 - (b) the consideration it has given to points raised in the course of consultation and to representations received.
- (5) At such times as a housing action trust considers appropriate or as it may be directed by the Secretary of State, the trust shall prepare a further statement of its proposals with regard to the exercise of its functions in [F4relation to] its area; and subsections (2) to (4) above shall again apply as they applied in relation to the first statement.

Textual Amendments

F4 Words in s. 64(1)(5) inserted (1.10.1996) by 1996 c. 52, s. 22, Sch. 18 Pt. IV para. 25(2); S.I. 1996/2402, art. 3 (subject to transitional provisions in Sch.)

Functions

65 Housing action trust as housing authority etc.

- (1) If the Secretary of State so provides by order, in a designated area or, as the case may be, in such part of the area as may be specified in the order, the housing action trust for the area shall have such of the functions described in subsection (2) below as may be so specified.

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- (2) The functions referred to in subsection (1) above are—
- (a) the functions conferred on a local housing authority by Parts II, VI, VII and IX to [F5XI] and XVI of the M4Housing Act 1985 and section 3(1) of the M5Chronically Sick and Disabled Persons Act 1970;
 - (b) the functions conferred by Part II of the M6Housing Associations Act 1985 on a local authority, within the meaning of that Act; and
 - (c) the functions conferred by sections 39 to 41 of the M7Land Compensation Act 1973 on the authority which is “the relevant authority” for the purposes of section 39 of that Act.
- (3) As respects the designated area or part thereof to which an order under this section applies, on the coming into force of the order, any function conferred on a housing action trust by the order shall, according to the terms of the order, be exercisable either—
- (a) by the trust instead of by the authority by which, apart from the order, the function would be exercisable; or
 - (b) by the trust concurrently with that authority.
- (4) Any enactment under which a housing action trust is to exercise a function by virtue of an order under this section shall have effect—
- (a) in relation to the trust, and
 - (b) where the trust is to have the function concurrently with another authority, in relation to that authority,
- subject to such modifications (if any) as may be specified in the order.
- (5) Where a housing action trust is to exercise functions conferred on a local housing authority by any of Parts VI, VII, IX and XI of the Housing Act 1985, section 36 of the M8Local Government Act 1974 (recovery by local authorities of establishment charges) shall apply to the housing action trust as if it were a local authority within the meaning of that section.
- (6) Such (if any) of the provisions of Parts XVII and XVIII of the Housing Act 1985 (compulsory purchase, land acquisition and general provisions) as may be specified in an order under this section shall have effect in relation to a housing action trust subject to such modifications as may be specified in the order.
- (7) An order under this section—
- (a) may contain such savings and transitional and supplementary provisions as appear to the Secretary of State to be appropriate; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F5 Word in s. 65(2)(a) substituted (3.5.1997) by 1996 c. 62, s. 80(2)(b); S.I. 1997/350, art. 2

Marginal Citations

M4 1985 c. 68.
M5 1970 c. 44.
M6 1985 c. 69.
M7 1973 c. 26.

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M8 1974 c. 7.

66 Planning control.

- (1) A housing action trust may submit to the Secretary of State proposals for the development of land within its designated area and the Secretary of State, after consultation with the local planning authority within whose area the land is situated and with any other local authority which appears to him to be concerned, may approve any such proposals either with or without modification.
- (2) Without prejudice to the generality of the powers conferred by [^{F6}sections 59 to 61 of the 1990 Act], a special development order made by the Secretary of State under [^{F6}section 59] with respect to a designated area may grant permission for any development of land in accordance with proposals approved under subsection (1) above, subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the local planning authority), as may be specified in the order.
- (3) The Secretary of State shall give to a housing action trust such directions with regard to the disposal of land held by it and with respect to the development by it of such land as appear to him to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historical interest and, in particular, of any buildings included in any list compiled or approved or having effect as if compiled or approved under [^{F7}section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990] (which relates to the compilation or approval by the Secretary of State of lists of buildings of special architectural or historical interest).
- (4) Any reference in this section to the local planning authority,—
 - (a) in relation to land in [^{F8}Wales,] Greater London or a metropolitan county, is a reference to the authority which is the local planning authority as ascertained in accordance with [^{F9}sections 1 and 2 of the 1990 Act]; and
 - (b) in relation to other land, is a reference to the district planning authority and also (in relation to proposals for any development which is a county matter, as defined in [^{F10}paragraph 1 of Schedule 1 to the 1990 Act]) to the county planning authority.

Textual Amendments

- F6** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(2\)\(a\)](#)
- F7** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(2\)\(b\)](#)
- F8** Word in s. 66(4)(a) inserted (1.4.1996) by [1994 c. 19, s. 22\(2\), Sch. 8 para. 9\(1\)](#) (with ss. 54(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, 3, Sch. 1
- F9** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(2\)\(c\)](#)
- F10** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\), s. 4, Sch. 2 para. 79\(2\)\(d\)](#)

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67 Housing action trust as planning authority.

- (1) ^{F11}The Secretary of State may by order provide that, for such purposes of Part III of the 1990 Act and sections 67 and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990,] and in relation to such kinds of development as may be specified in the order, a housing action trust shall be the local planning authority for the whole or such part as may be so specified of its designated area . . . ^{F12}
- (2) An order under subsection (1) above may provide—
- that any enactment relating to local planning authorities shall not apply to the trust; and
 - that any such enactment which applies to the trust shall apply to it subject to such modifications as may be specified in the order.
- (3) An order made by the Secretary of State may provide—
- that, subject to any modifications specified in the order, a housing action trust specified in the order shall have, in the whole or any part of its designated area . . . ^{F13}, such of the functions conferred by ^{F14}the provisions mentioned in subsection (3A) below] as may be so specified; and
 - that such of the provisions of ^{F15}Part VI and sections 249 to 251 and 258 of the 1990 Act and sections 32 to 37 of the Planning (Listed Buildings and Conservation Areas) Act 1990] as are mentioned in the order shall have effect, in relation to the housing action trust specified in the order and to land in the trust's area, subject to the modifications there specified.
- ^{F16}(3A) The provisions referred to in subsection (3)(a) above are sections 96, 100, 104 ^{F17}[171C, 171D], 172 to 185, 187 to 202, 206 to 222, 224, 225, 231 and 320 to 336 of and paragraph 11 of Schedule 9 to the 1990 Act, Chapters I, II and IV of Part I and sections 54 to 56, 59 to 61, 66, 68 to 72, 74 to 76 and 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and sections 4 to 15, 17 to 21, 23 to ^{F18}[26AA, 36 and 36A] of the Planning (Hazardous Substances) Act 1990.]
- (4) An order under subsection (3) above may provide that, for the purposes of any of the provisions specified in the order, any enactment relating to local planning authorities shall apply to the housing action trust specified in the order subject to such modifications as may be so specified.
- (5) ^{F19}
- (7) Any power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and any such order shall have effect subject to such savings and transitional provisions as may be specified in the order.

Textual Amendments

- F11** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 paras. 79(3)(a)**
- F12** Words repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), ss. 3, 4, Sch. 1 Pt. I, **Sch. 2 para. 79(3)(a)**
- F13** Words repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 3, **Sch. 1 Pt. I**
- F14** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 para. 79(3)(b)(i)**

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- F15** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 para. 79(3)(b)(ii)**
- F16** S. 67(3A) inserted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 para. 79(3)(c)**
- F17** Words in s. 67(3A) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7, para.7** (with s. 84(5)); S.I. 1991/2905, art.3, **Sch. 7**
- F18** Words in s. 67(3A) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3, Pt. II, para.18** (with s. 84(5)); S.I. 1991/2905, **art.3**
- F19** S. 67(5)(6) repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), ss. 3, 4, Sch. 1 Pt. I, **Sch. 2 para. 79(3)(d)**

68 Public health.

- (1) The Secretary of State may by order provide that, in relation to premises comprising or consisting of housing accommodation, a housing action trust shall have in its designated area (or in such part of its designated area as may be specified in the order) the functions conferred on a local authority—
- by sections 83 and 84 of the ^{M9}Public Health Act 1936 (the “1936 Act”) and section 36 of the ^{M10}Public Health Act 1961 (all of which relate to filthy or verminous premises or articles);
 - by any enactment contained in Part III (nuisances and offensive trades) of the 1936 Act;
 - by so much of Part XII of the 1936 Act as relates to any of the enactments mentioned in paragraphs (a) and (b) above; and
 - by Part I of the ^{M11}Prevention of Damage by Pests Act 1949 (rats and mice).
- (2) On the order coming into force, the trust shall have the functions conferred in relation to the designated area (or part) instead of or concurrently with any such authority, depending on the terms of the order.
- (3) The order may provide that any enactment under which the trust is to exercise functions by virtue of the order shall have effect in relation to the trust and, where the trust is to have any function concurrently with another authority, in relation to that authority, as modified by the order.
- (4) Where an order under this section provides that a housing action trust shall have the functions conferred upon a local authority by Part III of the 1936 Act, section 36 of the ^{M12}Local Government Act 1974 (recovery by local authorities of establishment charges) shall apply to the housing action trust as if it were a local authority within the meaning of that section.
- (5) The order shall have effect subject to such savings and transitional and supplementary provisions as may be specified in the order.
- (6) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

- M9** 1936 c. 49.
M10 1961 c. 64.
M11 1949 c. 55.

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M12 1974 c. 7.

69 Highways.

- (1) When any street works have been executed [^{F20}on any land in a designated area which was then or has since become a private street (or part of a private street)], the housing action trust may serve a notice on the street works authority requiring it to declare the street (or part) to be a highway which for the purposes of the ^{M13}Highways Act 1980 is a highway maintainable at the public expense.
- (2) Within the period of two months beginning on the date of the service of a notice under subsection (1) above, the street works authority may appeal against the notice to the Secretary of State ^{F21} . . .
- (3) After considering any representations made to him by the housing action trust and the street works authority, the Secretary of State shall determine an appeal under subsection (2) above by setting aside or confirming the notice under subsection (1) above (with or without modifications).
- (4) Where, under subsection (3) above, the Secretary of State confirms a notice,—
 - (a) he may at the same time impose conditions (including financial conditions) upon the housing action trust with which the trust must comply in order for the notice to take effect, and
 - (b) the highway (or part) shall become a highway maintainable at the public expense with effect from such date as the Secretary of State may specify.
- (5) Where a street works authority neither complies with the notice under subsection (1) above, nor appeals under subsection (2) above, the street (or part) concerned shall become a highway maintainable at the public expense upon the expiry of the period of two months referred to in subsection (2) above.
- (6) In this section “private street” and “street works authority” have the same meanings as in Part XI of the ^{M14}Highways Act 1980.

Textual Amendments

F20 Words in s. 69(1) substituted (11.10.1993) by 1993 c. 28, s. 182(1); S.I. 1993/2134, arts. 2, 4

F21 Words in s. 69(2) repealed (11.10.1993) by 1993 c. 28, ss. 182(2), 187(2), Sch. 22; S.I. 1993/2134, arts. 2, 4

Marginal Citations

M13 1980 c. 66.

M14 1980 c. 66.

^{F22}70

Textual Amendments

F22 S. 70 repealed (20.1.1997) by 1996 c. 52, s. 227, Sch. 19 Pt. VIII; S.I. 1996/2959, art. 2 (subject to transitional provisions in Sch. para. 1)

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71 Power to give financial assistance.

- (1) For the purpose of achieving its objects a housing action trust may, with the consent of the Secretary of State, give financial assistance to any person.
- (2) Financial assistance under subsection (1) above may be given in any form and, in particular, may be given by way of—
 - (a) grants,
 - (b) loans,
 - (c) guarantees,
 - (d) incurring expenditure for the benefit of the person assisted, or
 - (e) purchasing loan or share capital in a company.
- (3) Financial assistance under subsection (1) above may be given on such terms as the housing action trust, with the consent of the Secretary of State, considers appropriate.
- (4) Any consent under this section—
 - (a) may be given either unconditionally or subject to conditions; and
 - (b) may be given in relation to a particular case or in relation to such description of cases as may be specified in the consent;and the reference in subsection (3) above to the consent of the Secretary of State is a reference to his consent given with the approval of the Treasury.
- (5) The terms referred to in subsection (3) above may, in particular, include provision as to—
 - (a) the circumstances in which the assistance must be repaid or otherwise made good to the housing action trust and the manner in which that is to be done; or
 - (b) the circumstances in which the housing action trust is entitled to recover the proceeds or part of the proceeds of any disposal of land or buildings in respect of which assistance was provided.
- (6) Any person receiving assistance under subsection (1) above shall comply with the terms on which it is given and compliance may be enforced by the housing action trust.

72 Directions as to exercise of functions.

- (1) In the exercise of its functions, a housing action trust shall comply with any directions given by the Secretary of State.
- (2) Directions given by the Secretary of State may be of a general or particular character and may be varied or revoked by subsequent directions.
- (3) The Secretary of State shall publish any direction given under this section.
- (4) A transaction between any person and a housing action trust acting in purported exercise of its powers under this Part of this Act shall not be void by reason only that the transaction was carried out in contravention of a direction given under this section; and a person dealing with a housing action trust shall not be concerned to see or enquire whether a direction under this section has been given or complied with.

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73 Transfer of functions.

- (1) If, in the case of any designated area, it appears to the Secretary of State that it is expedient that the functions of a housing action trust established for the area should be transferred—
 - (a) to the housing action trust established for another designated area, or
 - (b) to a new housing action trust to be established for the area,
 he may by order provide for the dissolution of the first-mentioned trust and for the transfer of its functions, property, rights and liabilities to the trust referred to in paragraph (a) above, or, as the case may be, to a new housing action trust established for the area by the order.
- (2) Where an order under this section provides for the functions of a housing action trust established for a designated area to be transferred to the housing action trust established for another designated area—
 - (a) the latter trust shall, by virtue of the order, be treated as established for the first-mentioned designated area (as well as the area referred to in subsection (1) (a) above); and
 - (b) the order may alter the name of the latter trust in such manner as appears to the Secretary of State to be expedient.
- (3) Before making an order under this section the Secretary of State shall consult the housing action trust whose functions are to be transferred and also, in a case falling within subsection (1)(a) above, the housing action trust to whom the functions are to be transferred.
- (4) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Transfer of housing accommodation etc.

74 Transfer of land and other property to housing action trusts.

- (1) The Secretary of State may by order provide for the transfer from a local housing authority to a housing action trust of—
 - (a) all or any of the authority's local authority housing situated in the designated area; and
 - (b) any other land held or provided in connection with that local authority housing.
- (2) Without prejudice to the powers under subsection (1) above, if in the opinion of the Secretary of State a housing action trust requires for the purposes of its functions any land which, though not falling within that subsection, is situated in the designated area and held (for whatever purpose) by a local authority, the Secretary of State may by order provide for the transfer of that land to the trust.
- (3) The Secretary of State may by order transfer from a local housing authority or other local authority to a housing action trust so much as appears to him to be appropriate of any property which is held or used by the authority in connection with any local authority housing or other land transferred to the trust under subsection (1) or subsection (2) above; and for this purpose "property" includes chattels of any description and rights and liabilities, whether arising by contract or otherwise.

Status: Point in time view as at 26/03/2001.

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- (4) A transfer of any local authority housing or other land or property under the preceding provisions of this section shall be on such terms, including financial terms, as the Secretary of State thinks fit; and an order under this section may provide that, notwithstanding anything in section 141 of the ^{M15}Law of Property Act 1925 (rent and benefit of lessee's covenants to run with the reversion), any rent or other sum which—
- (a) arises under a tenancy of any local authority housing or other land transferred to the housing action trust under subsection (1) or subsection (2) above, and
 - (b) falls due before the date of the transfer,
- shall continue to be recoverable by the local housing authority or, as the case may be, the local authority to the exclusion of the trust and of any other person in whom the reversion on the tenancy may become vested.
- (5) Without prejudice to the generality of subsection (4) above, the financial terms referred to in that subsection may include provision for payments by a local authority (as well as or instead of payments to a local authority); and the transfer from a local housing authority or other local authority of any local authority housing or other land or property by virtue of this section shall not be taken to give rise to any right to compensation.
- (6) Where an order is made under this section—
- (a) payments made by a local authority as mentioned in subsection (5) above shall be [^{F23}expenditure for capital purposes for the purposes of Part IV of the Local Government and Housing Act 1989 (revenue accounts and capital finance of local authorities);]
 - (b) unless the order otherwise provides, payments made to a local authority as mentioned in subsection (5) above shall be regarded for the purposes of that Part as sums received by the authority in respect of a disposal falling within section [^{F24}58(1)(a)] of that Act.
- (7) Any power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “local authority” means any of the following—
- (a) a local housing authority;
 - (b) the council of a county;
 - (c) the Inner London Education Authority;
 - (d) an authority established by an order under section 10(1) of the ^{M16}Local Government Act 1985 (waste disposal);
 - (e) a joint authority established by Part IV of that Act; ^{F25} . . .
 - (f) a residuary body established by Part VII of that Act.
 - [^{F26}(g) the London Fire and Emergency Planning Authority.]

Textual Amendments

F23 Words substituted by S.I. 1990/778, art. 2, Sch. para. 1(a)

F24 “58(1)(a)” substituted by S.I. 1990/778, art. 2, Sch. para. 1(b)

F25 Word in s. 74(8)(e) repealed (3.7.2000) by 1999 c. 29, s. 423, Sch. 34 Pt. VIII (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(i)

F26 S. 74(8)(g) inserted (3.7.2000) by 1999 c. 29, s. 328(8), Sch. 29 Pt. I para. 52 (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(a)(h)

Status: Point in time view as at 26/03/2001.

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Marginal Citations

M15 1925 c. 20.

M16 1985 c. 51.

75 Supplementary provisions as to transfer orders.

- (1) In this section a “transfer order” means an order under any of subsections (1) to (3) of section 74 above and, in relation to a transfer order, “the transferor authority” means the local housing authority or other local authority from whom local authority housing or other land or property is or is to be transferred by the order.
- (2) Before making a transfer order, the Secretary of State shall consult the transferor authority with respect to—
 - (a) the local authority housing or other land or property which it is proposed should be transferred by the order; and
 - (b) the terms of the proposed transfer.
- (3) Before making a transfer order with respect to any local authority housing or other land, the Secretary of State shall take such steps as appear to him to be appropriate to bring the proposed transfer to the attention of any secure tenant [^{F27}or introductory tenant] or other person (other than a local authority) having an interest in the property proposed to be transferred as lessor, lessee, mortgagor or mortgagee.
- (4) In connection with any transfer made by it, a transfer order may contain such incidental, consequential, transitional or supplementary provisions as appear to the Secretary of State to be necessary or expedient and, in particular, may—
 - (a) apply, with or without modification, any provision made by or under any enactment; and
 - (b) modify the operation of any provision made by or under any enactment.

Textual Amendments

F27 Words in s. 75(3) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(b)

Vesting and acquisition of land

76 Vesting by order in housing action trust.

- (1) Subject to subsections (2) and (3) below, the Secretary of State may by order provide that land specified in the order which is vested in statutory undertakers or any other public body or in a wholly-owned subsidiary of a public body shall vest in a housing action trust established or to be established for the designated area in which the land is situated.
- (2) An order under this section may not specify land vested in statutory undertakers which is used for the purpose of carrying on their statutory undertakings or which is held for that purpose.
- (3) In the case of land vested in statutory undertakers, the power to make an order under this section shall be exercisable by the Secretary of State and the appropriate Minister.

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- (4) Part I of Schedule 9 to this Act shall have effect for supplementing the preceding provisions of this section.
- (5) An order under this section shall have the same effect as a declaration under the ^{M17}Compulsory Purchase (Vesting Declarations) Act 1981 except that, in relation to such an order, the enactments mentioned in Part II of Schedule 9 to this Act shall have effect subject to the modifications specified in that Part.
- (6) Compensation under the ^{M18}Land Compensation Act 1961, as applied by subsection (5) above and Part II of Schedule 9 to this Act, shall be assessed by reference to values current on the date the order under this section comes into force.
- [(6A) No order shall be made under this section in relation to a universal service provider (within the meaning of the Postal Services Act 2000).]
- (7) An order under this section shall be made by statutory instrument but no such order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Modifications etc. (not altering text)

C2 S. 76(6A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), Sch. 1 para. 75(2)

Marginal Citations

M17 1981 c. 66.

M18 1961 c. 33.

77 Acquisition by housing action trust.

- (1) For the purposes of achieving its objects (and performing any of its functions), a housing action trust may acquire land within its designated area by agreement or, on being authorised to do so by the Secretary of State, compulsorily.
- (2) A housing action trust may acquire (by agreement or, on being authorised to do so by the Secretary of State, compulsorily)—
 - (a) land adjacent to the designated area which the trust requires for purposes connected with the discharge of its functions in the area; and
 - (b) land outside the designated area (whether or not adjacent to it) which the trust requires for the provision of services in connection with the discharge of its functions in the area.
- (3) Where a housing action trust exercises its powers under subsection (1) or subsection (2) above in relation to land which forms part of a common or open space or fuel or field garden allotment, the trust may acquire (by agreement or, on being authorised to do so by the Secretary of State, compulsorily) land for giving in exchange for the land acquired.
- (4) Subject to section 78 below, the ^{M19}Acquisition of Land Act 1981 shall apply in relation to the compulsory acquisition of land in pursuance of the preceding provisions of this section.

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- (5) A housing action trust may be authorised by the Secretary of State, by means of a compulsory purchase order, to purchase compulsorily such new rights as are specified in the order—
- (a) being rights over land in the designated area and which the trust requires for the purposes of its functions;
 - (b) being rights over land adjacent to the designated area and which the trust requires for purposes connected with the discharge of its functions in the area; and
 - (c) being rights over land outside the designated area (whether or not adjacent to it) and which the trust requires for the provision of services in connection with the discharge of its functions in the area.
- (6) In subsection (5) above—
- (a) “new rights” means rights which are not in existence when the order specifying them is made; and
 - (b) “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981;
- and Schedule 3 to that Act shall apply to a compulsory purchase of a right by virtue of subsection (5) above.
- (7) The provisions of Part I of the ^{M20}Compulsory Purchase Act 1965 (so far as applicable), other than section 31, shall apply in relation to the acquisition of land by agreement under this section; and in that Part as so applied “land” has the meaning given by the ^{M21}Interpretation Act 1978.

Marginal Citations

M19 1981 c. 67.

M20 1965 c. 56.

M21 1978 c. 30.

78 Supplementary provisions as to vesting, acquisition and compensation.

- (1) The ^{M22}Acquisition of Land Act 1981, as applied by section 77 above, shall have effect subject to the modifications in Part I of Schedule 10 to this Act.
- (2) The supplementary provisions in Parts II and III of that Schedule shall have effect, being,—
 - (a) as to those in Part II, provisions about land vested in or acquired by a housing action trust under this Part of this Act; and
 - (b) as to those in Part III, provisions about the acquisition by a housing action trust of rights over land under section 77(5) above.
- (3) In Schedule 1 to the ^{M23}Land Compensation Act 1961 (actual or prospective development which is not to be taken into account in assessing compensation in certain cases or the effect of which is to reduce compensation in certain cases of adjacent land in the same ownership), the following paragraph shall be added after the paragraph 4A inserted by section 145 of the ^{M24}Local Government, Planning and Land Act 1980:

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“4B Where any of the relevant land forms part of a housing action trust area established under Part III of the Housing Act 1988.

Development of any land other than the relevant land in the course of the development or re-development of the area as a housing action trust area.”

- (4) In section 6 of the Land Compensation Act 1961 (disregard of actual or prospective development in certain cases) in subsection (1)(b) for “4A” there shall be substituted “4B”.

Marginal Citations

M22 1981 c. 67.

M23 1961 c. 33.

M24 1980 c. 65.

Disposals of land

79 Disposal of land by housing action trusts.

- (1) Subject to subsection (2) below and any directions given by the Secretary of State, a housing action trust may, with the consent of the Secretary of State, dispose of any land for the time being held by it to such persons, in such manner and on such terms as it considers expedient for the purpose of achieving its objects.
- (2) A housing action trust may not dispose of a house which is for the time being subject to a secure tenancy [^{F28}or an introductory tenant] except—
- [^{F29}(a) to a registered social landlord (within the meaning of Part I of the Housing Act 1996), or]
- (b) to a local housing authority or other local authority ^{F30}. . . ;
- but this subsection does not apply to a disposal under Part V of the ^{M25}Housing Act 1985 (the right to buy).
- (3) The reference in subsection (1) above to disposing of land includes a reference to granting an interest in or right over land and, in particular, the granting of an option to purchase the freehold of, or any other interest in, land is a disposal for the purposes of that subsection; and a consent under that subsection given to such a disposal extends to a disposal made in pursuance of the option.
- (4) The consent of the Secretary of State referred to in subsection (1) above may be given—
- (a) either generally to all housing action trusts or to a particular trust or description of trust;
- (b) either in relation to particular land or in relation to land of a particular description; and
- (c) subject to conditions.
- (5) Without prejudice to the generality of subsection (4)(c) above, consent under subsection (1) above may, in particular, be given subject to conditions as to the price, premium or rent to be obtained by the housing action trust on the disposal, including

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conditions as to the amount by which, on the disposal of a house by way of sale or by the grant or assignment of a lease at a premium, the price or premium is to be, or may be, discounted by the housing action trust.

[^{F31}(5A) Subsection (2) above has effect as if the saving effected by paragraph 9 of the Schedule to the Housing Act 1996 (Commencement No. 3 and Transitional Provisions) Order 1996 related also to disposals of houses subject to introductory tenancies.]

^{F32}(6)

^{F32}(7)

^{F32}(8)

^{F32}(9)

^{F32}(10)

(11) In section 45(2)(b) of the ^{M26}Housing Act 1985 (which defines “public sector authority” for the purposes of provisions of that Act restricting service charges payable after disposal of a house) after the entry “an urban development corporation” there shall be inserted “a housing action trust”.

(12) A housing action trust shall be treated as a local authority for the purposes of sections 18 to 30 of the ^{M27}Landlord and Tenant Act 1985 (service charges).

(13) The provisions of Schedule 11 to this Act shall have effect in the case of certain disposals of houses by a housing action trust.

Textual Amendments

F28 Words in s. 79(2) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(c)**

F29 S. 79(2): paragraph (a) and word “or” at the end of the paragraph substituted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para. 11** (with s. 51(4); S.I. 1996/2402, **art. 3**)

F30 Words in s. 79(2)(b) repealed (11.10.1993) by 1993 c. 28, ss. 124(1), 187(2), **Sch. 22**; S.I. 1993/2134, arts. 2, 4, **Sch. 2** (with **Sch. 1 para. 5**).

F31 S. 79(5A) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(d)**

F32 S. 79(6)-(10) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3**

Modifications etc. (not altering text)

C3 S. 79(1)(2) excluded (1.11.1993) by 1993 c. 28, ss. 37, 56(7), **Sch. 10 para. 1(2)(c)**; S.I. 1993/2134, **arts. 2, 5**

Marginal Citations

M25 1985 c. 68.

M26 1985 c. 68.

M27 1985 c. 70.

80 Disposals made without consent.

(1) Any disposal of a house by a housing action trust which is made without the consent required by section 79(1) above is void unless—

- (a) the disposal is to an individual (or to two or more individuals); and
- (b) the disposal does not extend to any other house.

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- (2) Subject to subsection (1) above,—
- (a) a disposal of any land made by a housing action trust shall not be invalid by reason only that it is made without the consent required by section 79(1) above; and
 - (b) a person dealing with a housing action trust or with a person claiming under such a trust shall not be concerned to see or enquire whether any consent required by section 79(1) above has been obtained.

81 Consent required for certain subsequent disposals.

- (1) If, by a material disposal, a housing action trust disposes of a house which is for the time being subject to a secure tenancy [^{F33}or an introductory tenancy] to such a person as is mentioned in section 79(2)(a) above (in this section referred to as an “approved person”), the conveyance shall contain a statement that the requirement of this section as to consent applies to a subsequent disposal of the house by the approved person.
- (2) For the purposes of this section a “material disposal” is—
- (a) the transfer of the fee simple;
 - (b) the transfer of an existing lease; or
 - (c) the grant of a new lease; and “the conveyance” means the instrument by which such a disposal is effected.
- (3) An approved person who acquires a house on a material disposal falling within subsection (1) above shall not dispose of it except with the consent of the Secretary of State which may be given either unconditionally or subject to conditions; but nothing in this subsection shall apply in relation to an exempt disposal as defined in subsection (8) below.
- (4) Where an estate or interest in a house acquired by an approved person as mentioned in subsection (3) above has been mortgaged or charged, the prohibition in that subsection applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—
- (a) by operation of law or by virtue of an order of a court, property which has been acquired by an approved person passes or is transferred to another person, and
 - (b) that passing or transfer does not constitute a disposal for which consent is required under subsection (3) above,
- this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the property passes or is transferred were the approved person.
- (5) Before giving consent in respect of a disposal to which subsection (3) above applies, the Secretary of State—
- (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any house proposed to be disposed of; and
 - (b) shall have regard to the responses of any such tenants to that consultation.
- (6) If, apart from subsection (7) below, the consent of the [^{F34}Housing Corporation] would be required under [^{F35}section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or] section 9 of the ^{M28} Housing Associations Act 1985 (control of dispositions of land by [^{F36}unregistered] housing associations) for a

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- disposal to which subsection (3) above applies, the Secretary of State shall consult the [^{F34}Housing Corporation] before giving his consent in respect of the disposal for the purposes of this section.
- (7) No consent shall be required under [^{F37}section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985] for any disposal in respect of which consent is given [^{F38}under this section].
- (8) In this section an “exempt disposal” means—
- (a) the disposal of a dwelling-house to a person having the right to buy it under Part V of the ^{M29}Housing Act 1985 (whether the disposal is in fact made under that Part or otherwise);
 - ^{F39}(ab) the disposal of a dwelling-house to a person having the right to acquire it under Part I of the Housing Act 1996 (see sections 16 and 17 of that Act), whether or not the disposal is in fact made under provisions having effect by virtue of section 17 of that Act]
 - (b) a compulsory disposal, within the meaning of Part V of the Housing Act 1985;
 - (c) the disposal of an easement or rentcharge;
 - (d) the disposal of an interest by way of security for a loan;
 - (e) the grant of a secure tenancy or what would be a secure tenancy but for any of paragraphs 2 to 12 of Schedule I to the Housing Act 1985;
 - (f) the grant of an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of this Act, or what would be such a tenancy or occupancy but for any of paragraphs 4 to 8 of Schedule I to this Act; and
 - (g) the transfer of an interest held on trust for any person where the disposal is made in connection with the appointment of a new trustee or in connection with the discharge of any trustee.
- (9) Where the title of a housing action trust to a house which is disposed of by a material disposal falling within subsection (1) above is not registered—
- ^{F40}(a)
 - (b) the housing action trust shall give the approved person a certificate stating that it is entitled to make the disposal subject only to such encumbrances, rights and interests as are stated in the conveyance or summarised in the certificate; and
 - (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1986 the housing action trust is liable to indemnify him.
- (10) On an application being made for registration of a disposition of registered land or, as the case may be, of the approved person’s title under a disposition of unregistered land, if the conveyance contains the statement required by subsection (1) above, the Chief Land Registrar shall enter in the register a restriction stating the requirement of this section as to consent to a subsequent disposal.
- (11) In this section references to disposing of a house include references to—
- (a) granting or disposing of any interest in the house;
 - (b) entering into a contract to dispose of the house or to grant or dispose of any such interest; and
 - (c) granting an option to acquire the house or any such interest;

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and any reference to a statement or certificate is a reference to a statement or, as the case may be, certificate in a form approved by the Chief Land Registrar.

Textual Amendments

- F33** Words in s. 81(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(e)**
- F34** Words in s. 81(6) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 68(a)**(with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F35** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(a)(i)**
- F36** Words in s. 81(6) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(a)(ii)**
- F37** Words in s. 81(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 18(10)(b)**
- F38** Words in s. 81(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 68(b)**(with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F39** S. 81(8)(ab) inserted (1.4.1997) by S.I. 1997/627, art. 2, **Sch. para. 6**
- F40** S. 81(9)(a) repealed (1.4.1998) by 1997 c. 2, s. 4, **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**

Modifications etc. (not altering text)

- C4** S. 81 excluded (1.11.1993) by 1993 c. 28, ss. 37, 56(6), **Sch. 10 para. 1(2)(c)**; S.I. 1993/2134, **arts. 2, 5**

Marginal Citations

- M28** 1985 c. 69
- M29** 1985 c. 68

82 Power of [^{F41}Relevant Authority] to provide legal assistance to tenants after disposal.

- (1) This section applies where a house has been disposed of by a Corporation to disposal falling within section 79(2) above and, in relation to a house provide legal which has been so disposed of, a “transferred tenant” means a tenant of it assistance to who either—
- was the secure tenant [^{F42}or the introductory tenant] of the house immediately before the disposal; or
 - is the widow or widower of the person who was then the secure tenant [^{F42}or the introductory tenant] of it.
- (2) On an application by a transferred tenant of a house who is a party or a prospective party to proceedings or prospective proceedings to determine any dispute between himself and the person who acquired the house on the disposal referred to in subsection (1) above, the [^{F43}Relevant Authority] may give assistance to the transferred tenant if it thinks fit to do so—
- on the ground that the case raises a question of principle; or
 - on the ground that it is unreasonable, having regard to the complexity of the case, or to any other matter, to expect the transferred tenant to deal with it without assistance; or
 - by reason of any other special consideration.
- (3) Assistance given by the [^{F43}Relevant Authority] under this section may include—
- giving advice;
 - procuring or attempting to procure the settlement of the matter in dispute;
 - arranging for the giving of advice or assistance by a solicitor or counsel;

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- (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
- (e) any other form of assistance which the [F43Relevant Authority] may consider appropriate;

but paragraph (d) above does not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend and address the court in any proceedings.

- (4) In so far as expenses are incurred by the [F43Relevant Authority] in providing a transferred tenant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the [F43Relevant Authority]—
- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the tenant by any other person in respect of the matter in connection with which the assistance was given, and
 - (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings;

but subject to any charge [F44imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission].

- [F45(5) In this section “the [F46Relevant Authority]” in relation to a registered social landlord which acquired the house on the disposal referred to in subsection (1) above means the [F46Relevant Authority] in whose register the landlord is registered.

As to [F47whether that is the Housing Corporation or the Secretary of State], see section 56 of the Housing Act 1996.]

Textual Amendments

- F41** S. 82: words in side-note substituted (1.11.1998) by 1998 c. 38, s. 140(1), **Sch. 16 para. 69(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F42** Words in s. 82(1)(a)(b) inserted (12.2.1997) by S.I. 1997/74, **art. 2, Sch. para. 6(f)**
- F43** Words in s. 82(2)-(4) substituted (1.11.1998) by 1998 c. 38, s. 140(1), **Sch. 16 para. 69(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F44** Words in s. 82(4) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 paras. 42, 43** (with s. 107, **Sch. 14 para. 7(2)**); S.I. 2000/774, **art. 2(a)(ii)(iii)** (with transitional provisions and savings in arts. 3-5)
- F45** S. 82(5) inserted (1.10.1996) by S.I. 1996/2325, **art. 5(1), Sch. 2 para. 18(11)**
- F46** Words in s. 82(5) substituted (1.11.1998) by 1998 c. 38, s. 140(1), **Sch. 16 para. 69(3)(a)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F47** Words in s. 82(5) substituted (1.11.1998) by 1998 c. 38, s. 140(1), **Sch. 16 para. 69(3)(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

Modifications etc. (not altering text)

- C5** S. 82(3)(c)(d) amended (1.1.1992) by S.I. 1991/2684, **arts. 2(1), 4, Sch. 1**

Status: Point in time view as at 26/03/2001.

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Secure tenancies and right to buy

83 Application of Parts IV and V of Housing Act 1985.

- (1) Parts IV and V of the Housing Act 1985 (secure tenancies and the right to buy) shall be amended in accordance with this section.
- (2) In section 80(1) (which lists the landlords whose tenancies can qualify as secure tenancies), after the entry specifying a new town corporation there shall be inserted— “ a housing action trust ”.
- (3) In section 108 (heating charges to secure tenants), in paragraph (a) of subsection (5) (the definition of “heating authority”) after the words “housing authority” there shall be inserted “or housing action trust”.
- (4) In section 114 (meaning of “landlord authority” for the purposes of that Part), in each of subsections (1) and (2), after the entry specifying a development corporation, there shall be inserted— “ a housing action trust ”.
- (5) In section 171 (power to extend right to buy where certain bodies hold an interest in a dwelling-house), in subsection (2), after the entry specifying a new town corporation there shall be inserted— “ a housing action trust ”.
- (6) In each of the following provisions (all of which relate to cases where premises are or were let to a person in consequence of employment), namely—
 - (a) paragraph 2(1) of Schedule I (tenancies which are not secure tenancies),
 - (b) Grounds 7 and 12 of Schedule 2 (grounds for possession of dwelling-houses let under secure tenancies),
 - (c) Ground 5 of Schedule 3 (grounds for withholding consent to assignment by way of exchange), and
 - (d) paragraph 5 of Schedule 5 (exceptions to the right to buy),after the entry specifying a new town corporation there shall be inserted— “ a housing action trust ”.
- (7) In Schedule 4 (qualifying period for right to buy and discount), in paragraph 7 (the landlord condition) after the entry specifying a new town corporation there shall be inserted— “ a housing action trust ”.

84 Provisions applicable to disposals of dwelling-houses subject to secure tenancies.

- [^{F48}(1) The provisions of this section apply in any case where—
- (a) a housing action trust proposes to make a disposal of one or more houses let on secure tenancies [^{F49}or introductory tenancies] which would result in a person who, before the disposal, is a secure tenant [^{F49}or an introductory tenant] of the trust becoming, after the disposal, the tenant of another person, and
 - (b) that other person is not a local housing authority or other local authority.]
- [^{F50}(2) Before applying to the Secretary of State for consent to the proposed disposal or serving notice under subsection (4) below, the housing action trust shall serve notice in writing on any local housing authority in whose area any houses falling within subsection (1) above are situated—
- (a) informing the authority of the proposed disposal and specifying the houses concerned, and

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- (b) requiring the authority within such period, being not less than 28 days, as may be specified in the notice, to serve on the trust a notice under subsection (3) below.
- (3) A notice by a local housing authority under this subsection shall inform the housing action trust, with respect to each of the houses specified in the notice under subsection (2) above which is in the authority's area, of the likely consequences for the tenant if the house were to be acquired by the authority.]
- (4) Before applying to the Secretary of State for consent to the proposed disposal, and after the expiry of the period specified in the notice under subsection (2) above, the housing action trust shall serve notice in writing on the secure tenant [^{F51}or, as the case may be, introductory tenant]—
- (a) informing him of the proposed disposal and of the name of the person to whom the disposal is to be made;
 - (b) containing such other details of the disposal as seem to the trust to be appropriate;
 - (c) informing him of the likely consequences of the disposal on his position as a secure tenant [^{F52}or an introductory tenant] and, if appropriate, of the effect of sections 171A to 171H of the ^{M30}Housing Act 1985 (preservation of right to buy on disposal to private sector landlord);
 - [^{F53}(d) if the local housing authority in whose area the house of which he is tenant is situated has served notice under subsection (3) above, informing him (in accordance with the information given in the notice) of the likely consequences for him if the house were to be acquired by that authority;
 - (e) informing him, if he wishes to become a tenant of that authority, of his right to make representations to that effect under paragraph (f) below and of the rights conferred by section 84A below;]
 - (f) informing him of his right to make representations to the trust with respect to the proposed disposal within such period, being not less than 28 days, as may be specified in the notice.
- [^{F54}(5) If, by virtue of any representations made to the housing action trust in accordance with subsection (4)(f) above, section 84A below applies in relation to any house or block of flats, the trust shall—
- (a) serve notice of that fact on the Secretary of State, on the local housing authority and on the tenant of the house or each of the tenants of the block, and
 - (b) so amend its proposals with respect to the disposal as to exclude the house or block;
- and in this subsection “house” and “block of flats” have the same meanings as in that section.
- (5A) The housing action trust shall consider any other representations so made and, if it considers it appropriate to do so having regard to any of those representations—
- (a) may amend (or further amend) its proposals with respect to the disposal, and
 - (b) in such a case, shall serve a further notice under subsection (4) above (in relation to which this subsection will again apply).]

(6) When applying to the Secretary of State for consent to the proposed disposal (as amended, where appropriate, by virtue of subsection (5) [^{F55}or subsection (5A)] above) the housing action trust shall furnish to him—

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- (a) a copy of any notice served on it under subsection (3) above or served by it under subsection (4) above;
 - (b) a copy of any representations received by the trust; and
 - (c) a statement of the consideration given by the trust to those representations.
- (7) Without prejudice to the generality of section 72 above, where an application is made to the Secretary of State for consent to a disposal to which this section applies, [^{F56}or a disposal which would be such a disposal if subsection (1)(b) above were omitted,] the Secretary of State may, by a direction under that section, require the housing action trust—
- (a) to carry out such further consultation [^{F57}or, as the case may be, such consultation] with respect to the proposed disposal as may be specified in the direction; and
 - (b) to furnish to him such information as may be so specified with respect to the results of that consultation.
- [^{F58}(8) Notwithstanding the application to a housing action trust of Part IV of the ^{M31}Housing Act 1985 (secure tenancies) of Chapter 1 of Part V of the Housing Act 1996 (introductory tenancies), a disposal falling within subsection (1) above shall be treated as not being a matter of housing management to which section 105 of the Act of 1985 applies (in the case of secure tenants) or section 137 of the Act of 1996 applies (in the case of introductory tenants).]

Textual Amendments

- F48** S. 84(1) substituted (11.10.1993) by 1993 c. 28, s. 124(2); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F49** Words in s. 84(1)(a) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(g)(i)(1)(2)
- F50** S. 84(2)(3) substituted (11.10.1993) by 1993 c. 28, s. 125(1); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F51** Words in s. 84(4) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(g)(ii)
- F52** Words in s. 84(4)(c) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(g)(iii)
- F53** S. 84(4)(d)(e) substituted (11.10.1993) by 1993 c. 28, s. 125(2); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F54** S. 84(5)(5A) substituted (11.10.1993) for s. 84(5) by 1993 c. 28, s. 125(3); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F55** Words in s. 84(6) inserted (11.10.1993) by 1993 c. 28, s. 125(4); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F56** Words in s. 84(7) inserted (11.10.1993) by 1993 c. 28, s. 124(3)(a); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F57** Words in s. 84(7) inserted (11.10.1993) by 1993 c. 28, s. 124(3)(b); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F58** S. 84(8) substituted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(g)(iv)

Modifications etc. (not altering text)

- C6** S. 84 modified (11.10.1993) by 1993 c. 28, s. 124(5); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)

Marginal Citations

- M30** 1985 c. 68.
- M31** 1985 c. 68.

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[^{F59}84A Transfer by order of certain dwelling-houses let on secure tenancies.

- (1) This section applies in relation to any house or block of flats specified in a notice under subsection (2) of section 84 above if—
 - (a) in the case of a house, the tenant makes representations in accordance with paragraph (f) of subsection (4) of that section to the effect that he wishes to become a tenant of the local housing authority in whose area the house is situated; or
 - (b) in the case of a block of flats, the majority of the tenants who make representations in accordance with that paragraph make representations to the effect that they wish to become tenants of the local housing authority in whose area the block is situated.
- (2) The Secretary of State shall by order provide for the transfer of the house or block of flats from the housing action trust to the local housing authority.
- (3) The Secretary of State may also by order transfer from the housing action trust to the local housing authority so much as appears to the Secretary of State to be appropriate of any property belonging to or usually enjoyed with the house or, as the case may be, the block or any flat contained in it; and for this purpose “property” includes chattels of any description and rights and liabilities, whether arising by contract or otherwise.
- (4) A transfer of any house, block of flats or other property under this section shall be on such terms, including financial terms, as the Secretary of State thinks fit; and an order under this section may provide that, notwithstanding anything in section 141 of the Law of Property Act 1925 (rent and benefit of lessee’s covenants to run with the reversion), any rent or other sum which—
 - (a) arises under the tenant’s tenancy or any of the tenants’ tenancies, and
 - (b) falls due before the date of the transfer,
 shall continue to be recoverable by the housing action trust to the exclusion of the authority.
- (5) Without prejudice to the generality of subsection (4) above, the financial terms referred to in that subsection may include provision for payments to a local housing authority (as well as or instead of payments by a local housing authority); and the transfer from a housing action trust of any house, block of flats or other property by virtue of this section shall not be taken to give rise to any right to compensation.
- (6) In this section—

“block of flats” means a building containing two or more flats;

“common parts”, in relation to a building containing two or more flats, means any parts of the building which the tenants of the flats are entitled under the terms of their tenancies to use in common with each other;

“flat” and “house” have the meanings given by section 183 of the Housing Act 1985;

and any reference to a block of flats specified in a notice under section 84(2) above is a reference to a block in the case of which each flat which is let on a secure tenancy [^{F60}or an introductory tenancy] is so specified.
- (7) For the purposes of subsection (6) above, a building which contains—
 - (a) one or more flats which are let, or available for letting, on secure tenancies [^{F61}or introductory tenancies] by the housing action trust concerned, and
 - (b) one or more flats which are not so let or so available,

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shall be treated as if it were two separate buildings, the one containing the flat or flats mentioned in paragraph (a) above and the other containing the flat or flats mentioned in paragraph (b) above and any common parts.]

Textual Amendments

- F59** S. 84A inserted (11.10.1993) by 1993 c. 28, s. 125(5); S.I. 1993/2134, arts. 2, 4 (with savings in Sch. 1 para. 5)
- F60** Words in s. 84A(6) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(h)
- F61** Words in s. 84A(7)(a) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(i)

Rents

85 Rents generally.

- (1) A housing action trust may make such reasonable charges as it may determine for the tenancy or occupation of housing accommodation for the time being held by it.
- (2) A housing action trust shall from time to time review rents and make such changes, either of rents generally or of particular rents, as circumstances may require.

86 Increase of rent where tenancy not secure.

- (1) This section applies where a dwelling-house is let by a housing action trust on a periodic tenancy which is not a secure tenancy [^{F62}or an introductory tenancy].
- (2) The rent payable under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of a rental period by a written notice of increase given by the housing action trust to the tenant.
- (3) A notice under subsection (2) above is not effective unless—
 - (a) it is given at least four weeks before the first day of the rental period, or any earlier day on which the payment of rent in respect of that period falls to be made;
 - (b) it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so; and
 - (c) it gives him the, dates by which, if (by virtue of subsection (4) below) the increase is not to be effective, a notice to quit must be received by the trust and the tenancy be made to terminate.
- (4) Where a notice is given under subsection (2) above specifying an increase in rent with effect from the beginning of a rental period and the tenancy continues into that period, the notice shall not have effect if—
 - (a) the tenancy is terminated by notice to quit given by the tenant in accordance with the provisions (express or implied) of the tenancy;
 - (b) the notice to quit is given before the expiry of the period of two weeks beginning on the day following the date on which the notice of increase is given, or before the expiry of such longer period as may be allowed by the notice of increase; and

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- (c) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant on the last day of that rental period.
- (5) In this section “rental period” means a period in respect of which a payment of rent falls to be made.

Textual Amendments

F62 Words in s. 86(1) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(j)

Agency and dissolution

87 Agency agreements.

- (1) With the approval of the Secretary of State, a housing action trust may enter into an agreement with another person whereby, in relation to any housing accommodation or other land held by the trust which is specified in the agreement, that other person shall exercise, as agent of the trust, such of the functions of the trust as are so specified.
- (2) An agreement under subsection (1) above shall set out the terms on which the functions of the housing action trust are exercisable by the person who, under the agreement, is the agent of the trust (in this Part of this Act referred to as “the agent”).
- (3) Where the agent is a body or association, an agreement under subsection (1) above may provide that the functions of the agent under the agreement may be performed by a committee or sub-committee, or by an officer, of the body or association.
- (4) The approval of the Secretary of State under subsection (1) above may be given unconditionally or subject to conditions.
- (5) References in this section to the functions of a housing action trust in relation to housing accommodation or other land include—
- (a) functions conferred by any statutory provision, and
 - (b) the powers and duties of the trust as holder of an estate or interest in the housing accommodation or land in question.

88 Dissolution of housing action trust.

- (1) A housing action trust shall use its best endeavours to secure that its objects are achieved as soon as practicable.
- (2) Where it appears to a trust that its objects have been substantially achieved, it shall—
- (a) so far as practicable, dispose or arrange to dispose of any remaining property, rights or liabilities of the trust in accordance with the preceding provisions of this Part of this Act; and
 - (b) submit proposals to the Secretary of State for—
 - (i) the dissolution of the trust;
 - (ii) the disposal to any person of any remaining property, rights or liabilities of the trust which it has not been able to dispose of or arrange to dispose of under paragraph (a) above; and

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- (iii) the transfer of any function exercisable by the trust to another person (including, where appropriate, a person with whom the trust has entered into an agreement under section 87 above).
- (3) The Secretary of State may by order provide for the dissolution of a housing action trust and for any such disposal or transfer as is mentioned in subsection (2)(b) above, whether by way of giving effect (with or without modifications) to any proposals submitted to him under subsection (2) above or otherwise.
- (4) Any order under this section—
- (a) where it provides for any such disposal or transfer as is mentioned in subsection (2)(b) above, may be on such terms, including financial terms, as the Secretary of State thinks fit and may create or impose such new rights or liabilities in respect of what is transferred as appear to him to be necessary or expedient;
- [^{F63}(aa) where it provides for any such disposal or transfer as is mentioned in subsection (2)(b) above, may contain provisions—
- (i) establishing new bodies corporate to receive the disposal or transfer; or
- (ii) amending, repealing or otherwise modifying any enactment for the purpose of enabling any body established under any enactment to receive the disposal or transfer;]
- (b) may contain such supplementary and transitional provisions as the Secretary of State thinks necessary or expedient, including provisions amending [^{F64}, repealing or otherwise modifying any enactment]; and
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[^{F65}(5) In this section “enactment” includes any instrument made under any enactment.]

Textual Amendments

F63 S. 88(4)(aa) inserted (24.9.1996) by 1996 c. 53, ss. 144(2), 150(2)

F64 Words in s. 88(4)(b) substituted (24.9.1996) by 1996 c. 53, ss. 144(3), 150(2)

F65 S. 88(5) inserted (24.9.1996) by 1996 c. 53, ss. 144(4), 150(2)

Miscellaneous and general

89 Supply of goods and services.

- (1) A housing action trust and an urban development corporation established by an order under section 135 of the ^{M32} Local Government, Planning and Land Act 1980, may enter into any agreement with each other for all or any of the purposes set out in section 1(1) of the ^{M33} Local Authorities (Goods and Services) Act 1970, as if they were local authorities within the meaning of section I of that Act.
- (2) Without prejudice to subsection (1) above, in section 1(4) of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies), after the words ““public body” means any local authority” there shall be inserted “housing action trust established under Part III of the Housing Act 1988”.

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Marginal Citations

M32 1980 c. 65.

M33 1970 c. 39.

90 Information

- (1) If required to do so by notice in writing given by the Secretary of State for any of the purposes mentioned in subsection (3) below, a local authority,—
 - (a) at such time and place as may be specified in the notice, shall produce any document; or
 - (b) within such period as may be so specified, or such longer period as the Secretary of State may allow, shall furnish a copy of any document or supply any information;
 being a document, copy or information of a description specified in the notice.
- (2) Where notice is given to a local authority under subsection (1) above, any officer of the authority—
 - (a) who has the custody or control of any document to which the notice relates, or
 - (b) who is in a position to give information to which the notice relates,
 shall take all reasonable steps to ensure that the notice is complied with.
- (3) The purposes referred to in subsection (1) above are—
 - (a) determining whether the Secretary of State should make a designation order in respect of any area;
 - (b) where a designation order is to be or has been made, determining whether, and to what extent, he should exercise any of his other powers under this Part of this Act; and
 - (c) enabling him to provide information to a housing action trust the better to enable it to carry out its functions.
- (4) Without prejudice to the generality of subsection (1) above, among the information which may be required by a notice under that subsection is information with respect to the interests in, and the occupation of, land held by a local authority and, in particular, information with respect to any matter entered in a register kept under the ^{M34} Land Registration Act 1925 or the ^{M35} Land Charges Act 1972.
- (5) To any extent to which, apart from this subsection, he would not be able to do so, the Secretary of State may use, for any of the purposes mentioned in subsection (3) above, any information obtained by him under, or in connection with his functions under, the ^{M36} Housing Act 1985 or any other enactment.
- (6) If the Secretary of State considers it necessary or desirable to do so in order the better to enable a housing action trust to carry out its functions, he may disclose to the trust any information originally obtained by him for a purpose falling within paragraph (a) or paragraph (b) of subsection (3) above as well as information obtained for the purpose referred to in paragraph (c) of that subsection.
- (7) In this section “local authority” has the same meaning as in section 74 above.

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Marginal Citations

M34 1925 c. 21.

M35 1972 c. 61.

M36 1985 c. 68.

91

- (1) This section has effect in relation to any notice required or notices. authorised by this Part of this Act to be served on any person by a housing action trust.
- (2) Any such notice may be served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such notice may—
 - (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body; and
 - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the ^{M37} Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person to or on whom a notice is to be given or served shall be his last known address, except that—
 - (a) in the case of a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of that body; and
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.
- (5) If the person to be given or served with any notice mentioned in subsection (1) above has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept documents of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (6) If the name or address of any owner, lessee or occupier of land to or PART III on whom any notice mentioned in subsection (1) above is to be served cannot after reasonable inquiry be ascertained, the document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

Marginal Citations

M37 1978 c. 30.

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92 Interpretation of Part III.

- (1) In this Part of this Act, except where the context otherwise requires,—
- (a) “designated area” and “designation order” have the meaning assigned by section 60(6) above;
 - (b) any reference to a “house” includes a reference to a flat and to any yard, garden, outhouses and appurtenances belonging to the house or flat or usually enjoyed with it;
 - (c) “housing accommodation” includes flats, lodging-houses and hostels;
 - [^{F66}(ca) “introductory tenancy” has the same meaning as in Chapter I of Part V of the Housing Act 1996 and “introductory tenant” shall be construed accordingly;]
 - (d) “local housing authority” has the same meaning as in the ^{M38}Housing Act 1985 and section 2 of that Act (the district of a local housing authority) has effect in relation to this Part of this Act as it has effect in relation to that Act;
 - (e) “local authority housing” means housing accommodation provided by a local housing authority (whether in its own district or not);
 - (f) “secure tenancy” has the meaning assigned by section 79 of the ^{M39}Housing Act 1985 and “secure tenant” shall be construed accordingly; and
 - [^{F67}(g) “the 1990 Act” means the Town and Country Planning Act 1990]
- ^{F68}(2)

Textual Amendments

- F66** S. 92(1)(ca) inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 6(k)
- F67** S. 92(1)(g) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 para. 79(4)**
- F68** S. 92(2) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 70, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

Marginal Citations

- M38** 1985 c. 68.
- M39** 1985 c. 68.

Status:

Point in time view as at 26/03/2001.

Changes to legislation:

Housing Act 1988, Part III is up to date with all changes known to be in force on or before 05 July 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.