



# Housing Act 1988

## 1988 CHAPTER 50

### PART III

#### HOUSING ACTION TRUST AREAS

*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.
- (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 <sup>M1</sup>Law of Property Act 1925 (rent and benefit of lessee's covenants to run with the reversion), any rent or other sum which—

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- (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 [<sup>F1</sup> [<sup>F2</sup> capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance)];]
- (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 [<sup>F3</sup> section 9(1) of that Act as sums received by the authority in respect of the disposal by it of an interest in a capital asset.]
- (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 <sup>M2</sup>Local Government Act 1985 (waste disposal);
- (e) a joint authority established by Part IV of that Act; <sup>F4</sup> . . .
- (f) a residuary body established by Part VII of that Act;
- [<sup>F5</sup>(fa) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- (fb) a combined authority established under section 103 of that Act;]
- [<sup>F6</sup>(fc) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;]
- [<sup>F7</sup>(g) the London Fire Commissioner.]

#### Textual Amendments

- F1** Words substituted by [S.I. 1990/778, art. 2, Sch. para. 1\(a\)](#)
- F2** Words in s. 74(6)(a) substituted (31.1.2008) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\), ss. 238\(1\)\(a\), 245; S.I. 2008/172, art. 2\(1\)\(t\)](#) (as amended by [S.I. 2008/337, art. 3](#))
- F3** Words in s. 74(6)(b) substituted (31.1.2008) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\), ss. 238\(1\)\(b\), 245; S.I. 2008/172, art. 2\(1\)\(t\)](#) (as amended by [S.I. 2008/337, art. 3](#))
- F4** 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\(i\)](#)

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- F5** S. 74(8)(fa)(fb) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 119, 148(8), 149, **Sch. 6 para. 79(2)**; S.I. 2009/3318, **art. 2**
- F6** S. 74(8)(fc) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 57**; S.I. 2017/399, reg. 2, **Sch. para. 38**
- F7** S. 74(8)(g) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 82**; S.I. 2018/227, reg. 4(c)

#### Marginal Citations

- M1** 1925 c. 20.  
**M2** 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 [<sup>F8</sup>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

- F8** Words in s. 75(3) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 6(b)**

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