



# Local Government Act 1988

## 1988 CHAPTER 9

### PART III

#### PRIVATELY LET HOUSING ACCOMMODATION

- 24 Power to provide financial assistance for privately let housing accommodation.**
- (1) Subject to section 25 below, a local housing authority shall have power to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation.
  - (2) For the purposes of this section and section 25 below a local authority provide a person with financial assistance if they do or agree to do any of the following, that is to say—
    - (a) make a grant or loan to that person;
    - (b) guarantee or join in guaranteeing the performance of any obligation owed to or by that person;
    - (c) indemnify or join in indemnifying that person in respect of any liabilities, loss or damage; or
    - (d) if that person is a body corporate, acquire share or loan capital in that person.
  - (3) For the purposes of this section property is privately let as housing accommodation at any time when—
    - (a) it is occupied as housing accommodation in pursuance of a lease or licence of any description or under a statutory tenancy; and
    - (b) the immediate landlord of the occupier of the property is a person other than a local authority in England and Wales or a public-sector landlord in Scotland.
  - (4) Neither section 438 of the <sup>M1</sup>Housing Act 1985 (local authority mortgage interest rates) nor section 219 of the <sup>M2</sup>Housing (Scotland) Act 1987 (local authority home-loan interest rates) shall apply in relation to anything done under this section.
  - (5) In the <sup>M3</sup>Housing Associations Act 1985—

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- F1(a) .....
- (b) ..... F2
- F1(c) .....

(6) In this Part—

“disposal”, in relation to any land, includes a disposal by the creation of any interest in the land;

“housing accommodation”, in relation to England and Wales, has the same meaning as in Part II of the <sup>M4</sup>Housing Act 1985;

“landlord”, in relation to a person whose occupation of any property is in pursuance of a lease or statutory tenancy, has the same meaning as in the <sup>M5</sup>Landlord and Tenant Act 1985 or, in Scotland, the <sup>M6</sup>Rent (Scotland) Act 1984 and, in relation to a person whose occupation is in pursuance of a licence, means the person who for the time being owns the interest in right of which the licence was granted;

“lease”, in relation to England and Wales, has the same meaning as in the Housing Act 1985;

“loan” includes any form of credit and the remission (whether in whole or in part and whether temporarily or permanently) of any liability or obligation;

“local authority”—

(a) in relation to England and Wales, means a local housing authority or a county council;

(b) in relation to Scotland, means a [<sup>F3</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“local housing authority”—

(a) in relation to England and Wales, has the same meaning as in the Housing Act 1985;

(b) in relation to Scotland, means [<sup>F4</sup> a local authority];

“public-sector landlord”, in relation to Scotland, means—

(a) a local authority;

(b) a joint board or joint committee within the meaning of the <sup>M7</sup>Local Government (Scotland) Act 1973;

(c) any trust under the control of any body mentioned in paragraph (a) or (b) above;

(d) a development corporation established by an order made, or having effect as if made, under section 2 of the <sup>M8</sup>New Towns (Scotland) Act 1968;

(e) the Scottish Special Housing Association;

“statutory tenancy”—

(a) in relation to England and Wales, has the same meaning as in the <sup>M9</sup>Housing Act 1985;

(b) in relation to Scotland, has the same meaning as in the <sup>M10</sup>Rent (Scotland) Act 1984.

**Textual Amendments**

**F1** S. 24(5)(a)(c) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3**

**F2** S. 24(5)(b) repealed by Housing Act 1988 (c. 50, SIF 61), s. 140(2), **Sch. 18**

**F3** S. 24(6): words in definition of “local authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

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**F4** S. 24(6): words in definition of “local housing authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### Marginal Citations

**M1** 1985 c. 68.  
**M2** 1987 c. 26.  
**M3** 1985 c. 69.  
**M4** 1985 c. 68.  
**M5** 1985 c. 70.  
**M6** 1984 c. 58.  
**M7** 1973 c. 65.  
**M8** 1968 c. 16.  
**M9** 1985 c. 68.  
**M10** 1984 c. 58.

## 25 Consent required for provision of financial assistance etc.

- (1) Subject to the following provisions of this section, a local authority shall neither—
- (a) exercise the power conferred by section 24 above; nor
  - (b) so exercise any other power [<sup>F5</sup>(whether conferred before or after the passing of this Act)] as to provide any person, for the purposes of or in connection with the matters mentioned in subsection (1) of that section, with any financial assistance or with any gratuitous benefit,
- except under and in accordance with a consent given by the Secretary of State.
- (2) Nothing in this section shall require the consent of the Secretary of State to a person’s being provided by any local authority with any assistance or benefit if—
- (a) an obligation to provide that person with that particular assistance or benefit—
    - (i) is imposed on the authority by or under any enactment; or
    - (ii) not being an obligation arising as the result of the exercise on or after 6th February 1987 of any option conferred on the authority, has arisen by virtue of an agreement entered into by them before that date;
  - [<sup>F6</sup>(b) the assistance or benefit is provided in consequence of, or in connection with, the making by the authority, or by persons who include the authority, of a requirement under [<sup>F7</sup>section 41 or 98 of the Water Industry Act 1991] for the provision of a water main or public sewer;]
  - (c) the assistance or benefit is provided under section 28A(9)(b) of the <sup>M11</sup>National Health <sup>M12</sup>Service Act 1977 or section 16A(3)(b) of the National Health Service (Scotland) Act 1978 (power to make payments to voluntary organisations out of sums received from health authorities);
  - (d) the assistance or benefit is provided in exercise of any power the expenses of exercising which are recoverable under Schedule 10 to the <sup>M13</sup>Housing Act 1985 or Schedule 9 to the <sup>M14</sup>Housing (Scotland) Act 1987 (recovery of expenses of carrying out works required to be carried out by a repair notice, . . . <sup>F8</sup> or a notice relating to a house in multiple occupation);
  - (e) the assistance or benefit is provided in consequence of, or in connection with, the service . . . <sup>F9</sup> of an improvement order under Part IV of the said Act of 1987, . . . <sup>F9</sup>; or
  - (f) the assistance or benefit is provided in exercise of any power conferred by—

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- (i) section 273 of the said Act of 1985 (power to cleanse premises of vermin before demolition);
  - (ii) sections 379 to 394 of the said Act of 1985 or sections 178 to 190 of the said Act of 1987 (powers exercisable pursuant to the making of a control order);<sup>F10</sup> . . .
  - (iii) Parts XIV to XVI of the said Act of 1985 or Parts XII to XIV of the said Act of 1987 (loans and grants for, and assistance with, the acquisition, improvement, repair and conversion of housing)]<sup>F11</sup> or
  - (iv) article 3 of the Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 (power of local housing authorities to provide assistance)]
- (3) Any transaction entered into in contravention of this section shall be void.
- (4) Subject to subsections (3) and (4) of section 26 below, where at any time on or after 6th February 1987 and before the passing of this Act a local authority in England and Wales has done anything which would have been a contravention of this section if it had been in force at that time, the same consequences shall follow as if this section had been in force at that time.
- (5) For the purposes of this section a local authority provide a person with a gratuitous benefit if—
- (a) they provide that person, or agree to provide that person, with a benefit consisting in the disposal to any person of any land or other property, in the provision to any person of any goods, services or facilities, in the carrying out for any person of any works or in the making to any person of any payment; and
  - (b) that benefit is or is to be provided either for no consideration or for a consideration which has a value in money or money's worth which is significantly less than the value, in money or money's worth, of the benefit which is or is to be provided by the authority.
- (6) In determining for the purposes of subsection (5) above whether any benefit is or is to be provided by a local authority for no consideration, and in determining for those purposes the value of any consideration, there shall be disregarded—
- (a) so much (if any) of the consideration for the benefit in question as consists—
    - (i) in the acquisition by any person of any such property as is mentioned in section 24(1) above or in a promise that any such property will be acquired by any person;
    - (ii) in the carrying out of any works by any person for the purposes of the construction, conversion, rehabilitation, improvement or maintenance of any such property or in a promise that any works will be carried out by any person for any such purposes;
    - (iii) in the carrying out by any person of any acts of management in relation to any such property or in a promise that any acts of management will be carried out by any person in relation to any such property; or
    - (iv) in the grant of a right to nominate persons to be occupiers of any such property or in a promise to grant any such right;
  - and
  - (b) without prejudice to paragraph (a) above, so much of any transaction entered into after the passing of this Act otherwise than in pursuance of another

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transaction entered into before that time as provides, in relation to any property which is or is intended to be occupied as housing accommodation, for an obligation which—

- (i) restricts the occupation of the property as housing accommodation, or
- (ii) (whether because it relates to a matter affecting the suitability of the property for particular purposes or otherwise) has the effect of restricting its occupation as housing accommodation,

to occupation by persons of a particular description or to occupation by virtue of an interest or agreement of a particular description.

- (7) In the application of this section to Scotland the references in subsection (2)(a)(ii) above to 6th February 1987 shall have effect as references to the date on which this Act is passed.

#### Textual Amendments

- F5** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(1), **Sch. 11 para. 96**
- F6** S. 25(2)(b) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 79(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F7** Words in s. 25(2)(b) substituted (E.W.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 48**
- F8** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(4), **Sch. 12 Pt. II**
- F9** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(4), **Sch. 12 Pt. II**
- F10** Word in s. 25(2)(f)(ii) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(2), 15, **Sch. 6**
- F11** S. 25(2)(f)(iv) and preceding word inserted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(2), 9, **Sch. 1 para. 3**

#### Modifications etc. (not altering text)

- C1** S. 25 excluded (11.9.1996 for specified purposes and otherwise 16.12.1997) by 1996 c. 53, s. 132(7); S.I. 1996/2352, **art. 2(2)**; S.I. 1997/2846, **art. 2**

#### Marginal Citations

- M11** 1977 c. 49.
- M12** 1978 c. 29.
- M13** 1985 c. 68.
- M14** 1987 c. 26.

## 26 Consents under section 25.

- (1) A consent given for the purposes of section 25 above—
  - (a) may be given either unconditionally or subject to conditions;
  - (b) may be given in relation to a particular case or in relation to such description of cases (including cases described by reference to a particular local authority or a particular manner of providing assistance or benefits) as may be specified in the consent; and
  - (c) except in relation to anything already done or agreed to be done on the authority of the consent, may be varied or revoked by a notice given or

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published by the Secretary of State in such manner as he may consider appropriate.

(2) In determining whether to give a consent for the purposes of section 25 above in relation to any assistance or benefit or whether to vary or revoke a consent so given, and in determining to what (if any) conditions such a consent should be subject, the Secretary of State—

- (a) shall take into account the extent (if any) to which, and the circumstances in which, it is appropriate, in his opinion, that a local authority should bear the financial burden and risks of acquiring, constructing, converting, rehabilitating, improving, maintaining or managing any of the property in relation to which assistance or benefits might be provided by virtue of the consent; and
- (b) may take into account any other matter whatever which he considers relevant.

(3) Where before the passing of this Act any statement has been made by or on behalf of the Secretary of State—

- (a) that, if an enactment were in force requiring his consent to a person's being provided by a local authority with assistance or benefits of any description, he would give his consent for the purposes of that enactment in relation to any matter or would so give his consent subject to certain conditions; and
- (b) that, if any such enactment is passed, his statement is to be treated as a consent for the purposes of that enactment,

that statement shall have effect, both for the purposes of subsection (4) of section 25 above and after the passing of this Act, as if it were a consent given for the purposes of that section on the conditions (if any) specified in the statement.

(4) Where a consent given for the purposes of section 25 above or a statement such as is mentioned in subsection (3) above relates, in whole or in part, to any assistance or benefits provided before the consent was given or the statement made, that consent or statement shall have effect for the purposes of this section and that section—

- (a) as if the consent had been given, or the statement made, before the assistance or benefits were provided; and
- (b) in the case of a consent relating to any assistance or benefits provided before the passing of this Act, as if the consent had been such a statement;

but a consent or statement having effect in accordance with this subsection shall not affect any interest deriving from, or impose any liability in respect of, any disposal of property which was made before the giving of the consent or the making of the statement and was made by a person who, apart from paragraphs (a) and (b) above, had power to make it by virtue of section 25(3) or (4) above.

(5) Where a consent to a disposal of land by a local authority has been given for the purposes of section 25 above or any such statement as is mentioned in subsection (3) above has effect as such a consent [<sup>F12</sup>then, if the consent given for the purposes of section 25 above so provides], no further consent of the Secretary of State to that disposal shall (if the disposal is after the passing of this Act) be required by virtue of—

- (a) section 26(4) of the <sup>M15</sup>Town and Country Planning Act 1959 or section 74(2) of the <sup>M16</sup>Local Government (Scotland) Act 1973 (disposal of land for less than the best price etc.);
- (b) section 123(2) of the <sup>M17</sup>Local Government Act 1972 (disposal of land by certain local authorities); or

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- (c) section 32(2) or 43(1) of the <sup>M18</sup>Housing Act 1985 or section 12 of the <sup>M19</sup>Housing (Scotland) Act 1987 (disposal of land held for housing purposes and of certain other land).
- (6) Subsection (3) above and, in so far as they relate to a statement such as is mentioned in that subsection, subsections (4) and (5) above shall not extend to Scotland.

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**Textual Amendments**

**F12** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 132(7)**

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**Marginal Citations**

**M15** 1959 c. 53.

**M16** 1973 c. 65.

**M17** 1972 c. 70.

**M18** 1985 c. 68.

**M19** 1987 c. 26.

**Status:**

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