



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART IX **E+W+S**

#### MISCELLANEOUS AND GENERAL

*Local Government Finance Act 1988, local finance (Scotland) and block grants*

#### 139 **Local Government Finance Act 1988: amendments.** **E+W**

Schedule 5 to this Act (which amends the <sup>M1</sup>Local Government Finance Act 1988) shall have effect.

#### Marginal Citations

**M1** 1988 c. 41.

#### 140 **Scottish non-domestic rates: interim provisions.** **E+W+S**

(1) For section 3 of the <sup>M2</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (determination of non-domestic rates) there shall be substituted the following section—

##### **“3A Non-domestic rates: interim provisions.**

- (1) The Secretary of State shall, in respect of each of the financial years specified in subsection (2) below, prescribe for each local authority a rate which shall be their non-domestic rate in respect of that year.
- (2) The financial years referred to in subsection (1) above are those beginning with the financial year 1990-91 and ending with that immediately before the financial year in respect of which the non-domestic rate is first prescribed under section 3B of this Act.

*Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.*

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- (3) Non-domestic rates shall be levied in accordance with section 7 of the Local Government (Scotland) Act 1975 by each rating authority in respect of lands and heritages—
- (a) which are subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to their rateable value or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the Local Government Finance Act 1988, according to that rateable value; or
  - (b) which are part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to then on-residential use of those subjects or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the Local Government Finance Act 1988, according to that part of that rateable value which is so shown in the apportionment note.
- (4) The rates prescribed under subsection (1) above shall be known—
- (a) in the case of the regional council, as the non-domestic regional rate;
  - (b) in the case of the district council, as the non-domestic district rate; and
  - (c) in the case of the islands council, as the non-domestic islands rate.”
- (2) Accordingly—
- (a) references (however expressed) in any enactment to the non-domestic rate determined by a local authority under section 3 of the <sup>M3</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 shall be construed as references to the non-domestic rate prescribed for the local authority under section 3A of that Act;
  - (b) in section 109(2) of the <sup>M4</sup>Local Government (Scotland) Act 1973 for the words from “non-domestic district rate” onward there shall be substituted the words “information as may reasonably be required for the preparation of demand notes for the purposes of levying then on-domestic district rate”;
  - (c) section 110A(2) of the Local Government (Scotland) Act 1973 and section 128(2) of and paragraph 16 of Schedule 12 to the <sup>M5</sup>Local Government Finance Act 1988 shall cease to have effect.

#### Marginal Citations

**M2** 1987 c. 47.

**M3** 1987 c.47.

**M4** 1973 c. 65.

**M5** 1988 c. 41.

## 141 Scottish non-domestic rate. **E+W+S**

- (1) For section 3A of the <sup>M6</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 there shall be substituted the following section—

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### **“3B Unified non-domestic rate.**

- (1) The Secretary of State shall, in respect of each of the financial years specified in subsection (2) below, prescribe a rate which shall be the non-domestic rate to be levied throughout Scotland in respect of that financial year.
  - (2) The financial years referred to in subsection (1) above are those beginning with the first financial year after the coming into force of section 141 of the Local Government and Housing Act 1989.
  - (3) Subject to subsection (4) below, the non-domestic rate shall be levied in accordance with section 7 of the Local Government (Scotland) Act 1975 by each rating authority in respect of lands and heritages in their area being lands and heritages—
    - (a) which are subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to their rateable value or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the Local Government Finance Act 1988, according to that rateable value; or
    - (b) which are part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to the non-residential use of those subjects or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the Local Government Finance Act 1988, according to that part of that rateable value which is so shown in the apportionment note.
  - (4) In the application of section 7 of the Local Government (Scotland) Act 1975 to the levying of the non-domestic rate prescribed under this section, for the words “to which the rate relates” in each of subsections (1) and (2) of that section there shall be substituted the words “of the rating authority”.
- (2) Accordingly—
- (a) references (however expressed) in any enactment to the non-domestic rate determined by or prescribed in relation to a local authority under section 3 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 shall be construed as references to the non-domestic rate prescribed under section 3B of that Act;
  - (b) in section 109 of the <sup>M7</sup>Local Government (Scotland) Act 1973 (rating authorities)—
    - (i) for paragraphs (a) and (b) of subsection (1) there shall be substituted the following paragraph—

“(a) in the case of the non-domestic rate prescribed under section 3B of the Abolition of Domestic Rates Etc. (Scotland) Act 1987, the regional council and the islands council;” and
    - (ii) in subsection (2) for the words from “non-domestic district rate” onward there shall be substituted the words “ information as may reasonably be required for the preparation of demand notes for the purposes of levying the non-domestic rate ”.

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- (3) For section 110 of the <sup>M8</sup>Local Government (Scotland) Act 1973 (payments by regional councils to district councils in respect of district rates) there shall be substituted the following section—

**“110 Division between regional and district councils of amount collected by way of non-domestic rate.**

The Secretary of State may by regulations provide as to the division among the regional council and the councils of the districts within the area of the regional council of the amount collected by way of the non-domestic rate in that area in respect of a financial year.”

- (4) Section 111(1)(a), (b) and (d) of the Local Government (Scotland) Act 1973 (power to make regulations as to certain matters connected with non-domestic rates) shall cease to have effect.

**Marginal Citations**

- M6** 1987 c. 47.  
**M7** 1973 c. 65  
**M8** 1973 c. 65.

**142 Powers to vary incidence of standard community charge: Scotland. E+W+S**

In section 10 of the <sup>M9</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (liability for and calculation of standard community charge) for subsections (6) and (7) there shall be substituted the following subsections—

- “(6) The standard community charge due to a local authority in respect of any premises in respect of any financial year shall be the product of the personal community charge determined in respect of that year by the local authority and—
- (a) where the premises are in a specified class, the standard community charge multiplier determined in respect of that class by the authority; or
  - (b) where the premises are not in a specified class, the standard community charge multiplier determined by the authority in relation to such premises,
- in respect of that year.
- (7) A specified class is one which has been prescribed under this subsection or determined under regulations made under subsection (7F) below.
- (7A) A local authority shall determine their standard community charge multiplier or multipliers before such date in each year as is prescribed.
- (7B) A standard community charge multiplier must be one of the following, 0, ½, 1, 1½, 2.
- (7C) A local authority may resolve that different standard community charge multipliers shall apply in relation to different classes of premises prescribed under subsection (7) above.

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- (7D) A standard community charge multiplier relating to a class of premises prescribed under subsection (7) above shall not exceed such maximum multiplier as may be prescribed in relation to that class.
- (7E) In prescribing classes under subsection (7) above, the Secretary of State may classify premises by reference to such factors as he thinks fit, including, without prejudice to that generality—
- (a) the physical characteristics of premises or any part of them;
  - (b) the fact that premises are, or any part of them is, unoccupied;
  - (c) the fact that premises are, or any part of them is, occupied for prescribed purposes;
  - (d) the fact that premises are, or any part of them is, occupied by persons of prescribed descriptions;
  - (e) the circumstances of persons liable to pay the standard community charge.
- (7F) The Secretary of State may, by regulations, make provision—
- (a) enabling local authorities or local authorities of such class or classes as he may specify in the regulations—
    - (i) to determine, in relation to their areas, classes of premises additional to those prescribed under subsection (7) above;
    - (ii) to determine different such classes of premises in relation to different parts of their areas; and
    - (iii) to resolve that different standard community charge multipliers shall apply in relation to different classes of premises determined under the regulations, and
  - (b) requiring them, when determining a class or classes under the regulations, to classify premises only by reference to one or more prescribed factors being such factors as the Secretary of State thinks fit.
- (7G) Regulations under subsection (7F) above may make provision enabling the district council to resolve that different standard community charge multipliers shall apply in relation to such different classes of premises as have, in relation to the district, been determined under the regulations by the council of the region in which the district is situated.
- (7H) A regional council may resolve that different standard community charge multipliers shall apply in relation to the same specified class of premises in different districts within the region.”

**Marginal Citations**

M9 1987 c. 47.

**143 Reduced liability for personal community charges: Scotland. E+W+S**

—The following section shall be inserted after section 9 of the <sup>M10</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

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### **“9A Reduced liability for personal community charge.**

- (1) The Secretary of State may make regulations as regards any case where—
  - (a) a person is or was liable to pay, in respect of any time in such financial year as is prescribed, the personal community charge determined by a local authority in respect of that year; and
  - (b) prescribed conditions are fulfilled.
- (2) Regulations under this section may provide that the amount of a person’s liability in respect of personal community charge shall not be such amount as it would be apart from the regulations or, as the case may be, such amount as it was, but instead such smaller amount as is arrived at in accordance with prescribed rules.
- (3) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—
  - (a) rates for a period before 1 April 1989;
  - (b) the circumstances of or other matters relating to the person concerned;
  - (c) an amount relating to the local authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;
  - (d) such other amounts as may be prescribed or arrived at in a prescribed manner;
  - (e) the making of an application by the person concerned.
- (4) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (3)(a) to (d) above.
- (5) Without prejudice to the generality of section 31(2) of this Act, regulations under this section may include—
  - (a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each local authority;
  - (b) provision requiring him to lay the report before the House of Commons;
  - (c) provision for the review of any prescribed decision of a local authority relating to the application or operation of the regulations.
- (6) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—
  - (a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;
  - (b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.

and any such amendments or provision may be deemed by the regulations or, as the case may be, instrument to have come into effect prior to the date of coming into force of the regulations or instrument.

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- (7) In subsection (6) above “social security instrument” means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Act 1986.”

**Marginal Citations**

M10 1987 c. 47.

**144 Community charge grants: Scotland. E+W+S**

The following section shall be inserted after section 23 of the <sup>M11</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

**“PART IIIA E+W+S**

**COMMUNITY CHARGE GRANTS**

**23A Community charge grants.**

- (1) If regulations under section 9A have effect in respect of a financial year, the Secretary of State may, with the consent of the Treasury, pay a grant to a local authority in respect of that year.
- (2) The amount of the grant shall be such as the Secretary of State may, with the consent of the Treasury, determine.
- (3) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may, with the consent of the Treasury, determine.
- (4) In making any payment of grant under this section the Secretary of State may impose such conditions as he may, with the consent of the Treasury, determine; and the conditions may relate to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (5) In deciding whether to pay a grant under this section, and in determining the amount of any such grant, the Secretary of State shall have regard to his estimate of the aggregate of—
  - (c) any amount which, in consequence of the regulations, the local authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges in respect of the financial year concerned; and
  - (d) any administrative expenses the local authority might reasonably be expected to incur, or to have incurred, in respect of the financial year in giving effect to the regulations.”

**Marginal Citations**

M11 1987c. 47.

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**145 Amendment of Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments: Scotland. E+W+S**

Schedule 6 to this Act (which amends the <sup>M12</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments) shall have effect.

**Marginal Citations**

**M12** 1987 c. 47.

**146 Special grants. E+W**

- (1) The Secretary of State may, with the consent of the Treasury, pay a grant (in this section referred to as a “special grant”) in accordance with this section to a charging authority.
- (2) Before making any one or more special grants, the Secretary of State shall make a determination stating, with respect to the special grant or, as the case may be, each of the special grants,—
  - (a) to which authority it is to be paid,
  - (b) the purpose for which it is to be paid, and
  - (c) the amount of the grant,
 and that determination shall be made with the consent of the Treasury and shall be specified in a report (to be called a special grant report) which shall contain such explanation as the Secretary of State considers desirable of the main features of the determination.
- (3) A special grant report shall be laid before the House of Commons and, as soon as is reasonably practicable after the report has been so laid, the Secretary of State shall send a copy of it to any charging authority to whom a special grant is proposed to be paid in accordance with the determination in the report.
- (4) No special grant shall be paid unless the special grant report containing the determination relating to the grant has been approved by a resolution of the House of Commons.
- (5) A special grant report may specify conditions which the Secretary of State, with the consent of the Treasury, intends to impose on the payment of (or of any instalment of) any special grant to which the report relates; and the conditions may require the provision of returns or other information before a payment is made to the local authority concerned or relate to the use of the amount paid, or to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (6) Without prejudice to compliance with any conditions imposed as mentioned in subsection (5) above, a special grant shall be paid at such time or in instalments of such amounts and at such times as the Secretary of State may, with the consent of the Treasury, determine.
- (7) For the purposes of this section each of the following is a charging authority—
  - (a) a district council;
  - (b) a London borough council;
  - (c) the Common Council of the City of London; and
  - (d) the Council of the Isles of Scilly.



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## 147 Adjustment of block grant. **E+W**

- (1) This section applies for any year in relation to which, immediately before the passing of this Act, the obligation imposed on the Secretary of State by the paragraph 5 pooling provisions to ascertain the actual amount of the increases and decreases of block grant to be made for the year in accordance with those provisions had not yet arisen.
- (2) As soon as is reasonably practicable after the passing of this Act the Secretary of State shall ascertain, for a year for which this section applies, the amount of the increases and decreases of block grant which ought to be made in accordance with the paragraph 5 pooling provisions.
- (3) Subsection (4), subsection (5) or subsection (6) below (as the case maybe) applies where, for the purpose of so ascertaining, the Secretary of State needs to find the amount of a local authority's expenditure in relation to the year or the amount of any part of that expenditure.
- (4) Where the year begins in 1987 or before, he shall find the amount concerned by reference to—
  - (a) figures which relate to the authority's actual expenditure incurred for the year and which were received by him before the relevant date, or
  - (b) if no such figures were received by him before that date, any other information in his possession on that date about the expenditure incurred by the authority for the year.
- (5) Where the year begins in 1988, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure incurred and likely to be incurred by the authority for the year.
- (6) Where the year begins in 1989, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure likely to be incurred by the authority for the year.
- (7) Where the year begins in 1988, and the amount concerned is the amount of the authority's relevant education expenditure for the year, he shall find the amount by reference to—
  - (a) audited accounts which relate to that expenditure, which are in such form as the Secretary of State may specify and which were received by him before the second relevant date; or
  - (b) if no such accounts were received by him before the second relevant date, any information in his possession on the relevant date about that expenditure;and subsection (5) above shall have effect subject to the preceding provisions of this subsection.
- (8) In making payments of block grant after the passing of this Act, the Secretary of State shall adjust amounts paid so as to take account, so far as practicable, of increases and decreases ascertained under subsection (2) above.
- (9) As regards anything done after the passing of this Act for a year for which this section applies, the paragraph 5 pooling provisions shall have effect—
  - (a) with the omission of paragraph 5(2) of Schedule 10 to the 1980 Act, and
  - (b) with such other modifications as result from this section.
- (10) In this section—

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“local authority”, in relation to any year, means any body which for that year is a local authority for the purposes of Part VI of the 1980 Act;

“the 1980 Act” means the <sup>M13</sup>Local Government, Planning and Land Act 1980;

“the paragraph 5 pooling provisions” means paragraph 5 of Schedule 10 to the 1980 Act and regulations made under that paragraph (adjustment of block grant);

“the relevant date” means 1st February 1989 and “the second relevant date” means 1st October 1989;

“year” means a period of twelve months beginning with 1st April.

(11) For the purposes of this section an authority’s relevant education expenditure for the year beginning in 1988 is its expenditure which—

- (a) was incurred in the year, and
- (b) was incurred by way of payments falling within regulation 3(3)(d) or (e) of the <sup>M14</sup>Block Grant (Education Adjustments) (England) Regulations 1987.

#### Marginal Citations

M13 1980 c. 65.

M14 S.I. 1987/347.

#### 148 Rate support grant, 1985/86. **E+W**

The Rate Support Grant Supplementary Report (England) (No. 4) 1985/86 (which was approved by a resolution of the House of Commons on 19th January 1989) shall have effect, and be deemed always to have had effect, as if, in Annex VI (principles for calculating grant-related poundages), for the formula set out in paragraph 4 (grant-related poundages for total expenditure at or above the threshold level) there were substituted—

$$\text{GRP} = \text{GRPatGRE} + 0.69\text{p} \times \text{thresholdamount} \\ + 0.8625\text{p} \times \left( \frac{\text{totalexpenditure} - \text{GRE}}{\text{population}} - \text{thresholdamount} \right)$$

.”

#### 149 Statutory references to rating. **E+W**

(1) In the case of a provision which is made by or under any enactment and refers to a rate or a rateable value or any other factor connected with rating, the Secretary of State may make regulations—

- (a) providing that the reference shall instead be to some other factor (whether or not connected with rating); or
- (b) providing for the factor to be amended (whether by limiting its operation or in any other way);

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and this section shall have effect in place of section 119 of the <sup>M15</sup>Local Government Finance Act 1988.

- (2) Regulations under this section—
- (a) may make provision in such manner as the Secretary of State thinks fit (whether by amending provisions or otherwise);
  - (b) may provide for a factor expressed by reference to valuation, rent, a premium, the length of a lease, anything connected with rating, or any other matter whatever;
  - (c) may provide for a factor expressed by reference to a combination of matters (whether expressed in terms of a formula or otherwise);
  - (d) may provide for a factor which includes a method of adjustment (whether by reference to indexation or otherwise);
  - (e) may make provision with respect to the resolution of disputes (whether by a court or otherwise); and
  - (f) may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (3) A factor expressed by reference to rent may be by reference to ground rent, rent of premises at a market rate, rent as limited by law, or otherwise.
- (4) Nothing in this section shall be construed as limiting the power conferred by section 14 of the <sup>M16</sup>Interpretation Act 1978 to revoke, amend or vary regulations previously made under this section.
- (5) In this section “enactment” means an enactment contained in Schedule 10 to this Act, or in any other Act whether passed before or in the same Session as this Act; and for this purpose “Act” includes a private or local Act.
- (6) Without prejudice to the generality of the powers conferred by this section, section 37 of the <sup>M17</sup>Landlord and Tenant Act 1954 (which provides for compensation by reference to rateable values) shall be amended in accordance with Schedule 7 to this Act.

#### Marginal Citations

**M15** 1988 c. 41.

**M16** 1978 c. 30.

**M17** 1954 c. 56.

### *Charges by certain authorities*

#### **150 Power to allow charges. E+W+S**

- (1) The Secretary of State may make regulations providing that a charge may be imposed in respect of anything—
- (a) which is done by any relevant authority or by any relevant authority of a prescribed description,
  - (b) which is prescribed or falls within a prescribed description,
  - (c) in respect of which there is no power or duty to impose a charge apart from the regulations, and

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- (d) which is not done in the course of exercising an excepted function.
- (2) The regulations may include such provision as the Secretary of State sees fit as regards charges for which the regulations provide; and nothing in subsections (3) to (5) below or section 190(1) below is to prejudice this.
- (3) The regulations—
  - (a) may be made as regards services rendered, documents issued, or any other thing done by an authority (whether in pursuance of a power or a duty);
  - (b) may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.
- (4) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.
- (5) The regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (6) No regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

#### **151 Power to amend provisions about charges. E+W+S**

- (1) Subject to subsection (4) below, this section applies in the case of an existing provision to the extent that the provision allows (as opposed to requires) a charge to be imposed in respect of anything which is done by relevant authorities (or any of them) and which is not done in the course of exercising an excepted function.
- (2) The Secretary of State may make regulations—
  - (a) repealing the provision concerned to the extent that it so provides,
  - (b) amending the provision to that extent, or
  - (c) repealing the provision to that extent and replacing it with new provisions;
 and subsection (6) of section 150 above applies in relation to regulations under this section as it applies in relation to regulations under that section.
- (3) For the purposes of subsection (1) above—
  - (a) the charge may be expressed in terms of making a charge, paying a fee, or otherwise;
  - (b) the charge may relate to services rendered, documents issued, or any other thing done by a relevant authority (whether in pursuance of a power or a duty).
- (4) A charge does not fall within subsection (1) above if—
  - (a) it is one whose proceeds fall (or part of whose proceeds falls) to be paid into the Consolidated Fund;
  - (b) it is a charge amounting to local taxation; or
  - (c) it is one as respects which provision is made by section 49 of the <sup>M18</sup>Water (Scotland) Act 1980 (charges in respect of water supplied by meter).
- (5) Regulations under subsection (2) above may not require the imposition of a charge; and subsection (6) below shall have effect subject to this.

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- (6) The regulations may include such provision as the Secretary of State sees fit as regards charges; and nothing in subsections (7) to (9) below or section 190(1) below is to prejudice this.
- (7) The regulations may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.
- (8) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.
- (9) The regulations—
  - (a) may confer discretion as to the amount in a case where an existing provision confers none (or vice versa);
  - (b) may, in a case where an existing provision confers a discretion as to the amount, confer a different one; and
  - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (10) For the purposes of this section an existing provision is a provision of an Act passed before, or in the same Session as, this Act.
- (11) In this section “Act” includes a private or local Act.

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

**C1** S. 151 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**Marginal Citations**

**M18** 1980 c. 45.

**152 Interpretation, consultation and commencement of ss. 150 and 151. E+W+S**

- (1) For the purposes of sections 150 and 151 above the following are excepted functions—
  - (a) functions relating to education in schools;
  - (b) functions relating to the provision of a public library service;
  - (c) functions relating to fire fighting, that is to say, the extinction of fire and the protection of life and property in case of fire;
  - (d) functions relating to the registration of electors;
  - (e) functions relating to the conduct of elections;
  - (f) all functions of the police except those relating to the removal, delivery, disposal, custody or immobilisation of vehicles.
- (2) For the purposes of those sections in their application to England and Wales, each of the following is a relevant authority—
  - (a) a county council;
  - (b) a district council;
  - (c) a London borough council;

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- (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) a fire authority constituted by a combination scheme under the <sup>M19</sup>Fire Services Act 1947;
  - (g) a combined police authority established by an amalgamation scheme under the <sup>M20</sup>Police Act 1964;
  - (h) an authority established under section 10 of the <sup>M21</sup>Local Government Act 1985 (waste disposal authorities);
  - (i) a joint authority established by Part IV of that Act (police, fire services, civil defence and transport);
  - (j) an authority or board constituted a port health authority at any time by an order under section 2 of the <sup>M22</sup>Public Health (Control of Disease) Act 1984;
  - (k) a joint or special planning board constituted for a National Park by an order under paragraph 1 or paragraph 3 of Schedule 17 to the <sup>M23</sup>Local Government Act 1972; and
  - (l) the Broads Authority.
- (3) For the purposes of those sections in their application to Scotland, each of the following is a relevant authority—
- (a) a regional council,
  - (b) a district council,
  - (c) an islands council,
  - (d) a port local authority or joint port local authority constituted under section 172 of the <sup>M24</sup>Public Health (Scotland) Act 1897,
  - (e) a joint board or joint committee within the meaning of section 235(1) of the <sup>M25</sup>Local Government (Scotland) Act 1973, and
  - (f) a water development board within the meaning of section 109(1) of the <sup>M26</sup>Water (Scotland) Act 1980.
- (4) The Secretary of State may by order made by statutory instrument provide for any other body to be, or for a body to cease to be, a relevant authority for the purposes of those sections; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In those sections “prescribed” means prescribed by the regulations concerned.
- (6) Before exercising any power to make regulations under section 150 or section 151 above, the Secretary of State shall consult—
- (a) as respects England and Wales, such representatives of local government, and
  - (b) as respects Scotland, such associations of local authorities,
- as appear to him to be appropriate.
- (7) This section and sections 150 and 151 above shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Marginal Citations

**M19** 1947c. 41.

**M20** 1964 c. 48.

**M21** 1985 c. 51.

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- M22 1984 c. 22.
- M23 1972 c. 70.
- M24 1897 c. 38.
- M25 1973 c. 65.
- M26 1980 c. 45.

### 153 Charges: temporary traffic signs. **E+W+S**

- (1) In section 65 of the <sup>M27</sup>Road Traffic Regulation Act 1984 (powers and duties of highways authorities and roads authorities as to placing of traffic signs) after subsection (3) there shall be inserted the following subsection—

“(3A) No charge may be made—

- (a) in England and Wales, by a highway authority which is the council of a county, metropolitan district or London borough or the Common Council of the City of London, or
- (b) in Scotland, by a local roads authority,

with respect to the exercise of their power under subsection (1) above to permit a traffic sign to be placed on or near any road in their area if—

- (i) the sign conveys information of a temporary nature or is otherwise intended to be placed only temporarily; and
- (ii) the sign is to be placed by a body which is prescribed for the purposes of this subsection as being a body appearing to the Secretary of State to be representative of the interests of road users or any class of road users.”

- (2) Subsection (1) above does not apply in any case where, before this section comes into force, the payment of a charge has been agreed.

#### Marginal Citations

- M27 1984 c. 27.

VALID FROM 01/01/1992

### 154 Charges: library services. **E+W**

- (1) For subsections (2) to (5) of section 8 of the <sup>M28</sup>Public Libraries and Museums Act 1964 (exceptions to restrictions on charging for library facilities) there shall be substituted the following subsections—

“(2) Subject to subsections (3) and (4) below, the Minister may by regulations—

- (a) authorise library authorities to make charges for such library facilities made available by them as may be specified in the regulations; and
- (b) make such provision as regards charges by library authorities for library facilities, other than provision requiring the making of charges, as he thinks fit.

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(3) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for lending any written material to any person where—

- (a) it is the duty of the authority under section 7(1) above to make facilities for borrowing available to that person;
- (b) the material is lent in the course of providing such facilities to that person on any library premises;
- (c) the material is lent in a form in which it is readable without the use of any electronic or other apparatus; and
- (d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it;

but this subsection shall not prevent any regulations under this section from authorising the making of charges in respect of the use of any facility for the reservation of written materials or in respect of borrowed materials which are returned late or in a damaged condition.

(4) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for making facilities available for any person to do any of the following on any library premises, that is to say—

- (a) reading the whole or any part of any of the written materials for the time being held by the authority in a form in which they are readable without the use of any electronic or other apparatus or in microform;
- (b) consulting (whether or not with the assistance of any such apparatus or of any person) such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that authority's public library service.

(5) Without prejudice to the generality of subsection (2) above, the power to make regulations under this section shall include power—

- (a) to confer a discretion as to the amount of any charge made under the regulations;
- (b) to provide for such a discretion to be exercisable subject to such maximum amount or scale of maximum amounts as may be specified in or determined under the regulations;
- (c) to require library authorities to take such steps as may be specified or described in the regulations for making the amounts of their charges for library facilities known to the public;
- (d) to make such other incidental provision and such supplemental, consequential and transitional provision as the Minister thinks necessary or expedient; and
- (e) to make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

(5A) The power to make regulations under this section shall be exercisable by statutory instrument; and no regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.”

(2) After subsection (6) of that section there shall be inserted the following subsection—

“(7) In this section—



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“library premises” means—

- (a) any premises which are occupied by a library authority and are premises where library facilities are made available by the authority, in the course of their provision of a public library service, to members of the public;
- (b) any vehicle which is used by a library authority for the purpose of providing such a service and is a vehicle in which facilities are so made available;

“the Minister” means—

- (a) in relation to library authorities whose areas are in England, the Lord President of the Council; and
- (b) in relation to library authorities whose areas are in Wales, the Secretary of State;

and

“written material” means—

- (a) any book, journal, pamphlet or other similar article; or
- (b) any reprographic copy (within the meaning of the Copyright, Designs and Patents Act 1988) of any article falling within paragraph (a) above or any other reproduction of such an article made by any means whatever.”

- (3) This section shall come into force on such day as the Lord President of the Council and the Secretary of State, acting jointly, may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

#### Commencement Information

**II** S. 154 wholly in force at 01. 01. 1992 see S.I. 1991/2940, art. 2

#### Marginal Citations

**M28** 1964 c. 75.

### *Miscellaneous local government provisions*

#### **155 Emergency financial assistance to local authorities. E+W+S**

(1) In any case where—

- (a) an emergency or disaster occurs involving destruction of or danger to life or property, and
- (b) as a result, one or more local authorities incur expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in their area or among its inhabitants,

the Secretary of State may establish a scheme under this section for the giving of financial assistance to those authorities in respect of that expenditure.

(2) Financial assistance given pursuant to a scheme under this section shall take the form of grants paid by the Secretary of State with the consent of the Treasury and, subject

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to that, the terms and conditions of a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.

- (3) Without prejudice to the generality of subsection (2) above, a scheme under this section may—
- (a) make the payment of grants conditional upon the making of claims of a description specified in the scheme;
  - (b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants;
  - (c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part; and
  - (d) make different provision for different local authorities or descriptions of authority and for different areas.
- (4) In the application of this section to England and Wales, any reference to a local authority is a reference to—
- (a) a county council;
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) the Receiver for the Metropolitan Police District; or
  - (g) a joint authority established by Part IV of the <sup>M29</sup>Local Government Act 1985, other than a metropolitan county passenger transport authority.
- (5) In the application of this section to Scotland, any reference to a local authority is a reference to—
- (a) a regional council;
  - (b) a district council;
  - (c) an islands council; or
  - (d) a joint board or joint committee within the meaning of the <sup>M30</sup>Local Government (Scotland) Act 1973.
- (6) The reference in subsection (1)(b) above to expenditure incurred by a local authority includes, in the case of an authority in England and Wales, expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish or community council.
- (7) This section shall come into force on 1st April 1990.

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

**C2** S. 155 amended (28.11.1994) by S.I. 1994/2825, reg. 41

**Marginal Citations**

**M29** 1985 c. 51.

**M30** 1973 c.65.

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## 156 Contingency planning and co-ordination in respect of emergencies ordisasters. **E+W**

- (1) In section 138 of the <sup>M31</sup>Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) after subsection (1) there shall be inserted the following subsection—

“(1A) If a principal council are of the opinion that it is appropriate to undertake contingency planning to deal with a possible emergency or disaster which, if it occurred,—

- (a) would involve destruction of or danger to life or property, and
- (b) would be likely to affect the whole or part of their area,

they may incur such expenditure as they consider necessary on that planning (whether relating to a specific kind of such possible emergency or disaster or generally in relation to possible emergencies or disasters falling within paragraphs (a) and (b) above).”

- (2) In subsection (3) of that section—

- (a) for the words from the beginning to “authorise” there shall be substituted “ Nothing in this section authorises ”; and
- (b) for the words “the power conferred by that subsection is” there shall be substituted “ the powers conferred by subsections (1) and (1A) above are ”.

- (3) At the end of the section there shall be added the following subsections—

“(5) With the consent of the Secretary of State, a metropolitan county fire and civil defence authority and the London Fire and Civil Defence Authority may incur expenditure in co-ordinating planning by principal councils in connection with their functions under subsection (1) above.

(6) In this section “contingency planning” means the making, keeping under review and revising of plans and the carrying out of training associated with the plans.”

### Marginal Citations

**M31** 1972 c. 70.

## 157 Commutation of, and interest on, periodic payments of grants etc. **E+W+S**

- (1) In any case where, by virtue of any enactment, the Secretary of State has a power or duty to make to a local authority any annual or other periodic payments by way of contribution, grant or subsidy towards expenditure incurred or to be incurred by the local authority, the Secretary of State—

- (a) may determine to commute any such payments which would otherwise fall due on or after 1st April 1990 either into a single payment or into such number of payments (being less than would otherwise be payable) as he considers appropriate; and
- (b) may, if he thinks it appropriate, pay to the Public Works Loans Commissioners the whole or any part of any single or other payment determined under paragraph (a) above so as to reduce or extinguish such debt (whether then due or not) of the local authority to those Commissioners as the Secretary of State thinks fit.

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- (2) The amount required to reduce or extinguish a debt as mentioned in paragraph (b) of subsection (1) above shall be such as may be determined by the Public Works Loans Commissioners and where, by virtue of that paragraph, only part of a commuted payment is paid to those Commissioners, the balance shall be paid to the local authority concerned.
- (3) Subsection (1) above applies whether the annual or other periodic payments began, or would otherwise begin, before, on or after the passing of this Act and applies notwithstanding anything in any enactment requiring the payments to be made over a period of twenty years or any other specified period.
- (4) A single or other payment falling to be made by virtue of subsection (1) above is in this section referred to as a “commuted payment” and the calculation of the amount of any commuted payment shall be such as appears to the Secretary of State to be appropriate.
- (5) In any case where the amount of any annual or other periodic payment such as is mentioned in subsection (1) above is, at the passing of this Act, calculated by reference to a rate of interest which varies from time to time, the Secretary of State may substitute a fixed rate of interest.
- (6) In this section “local authority”, as respects England and Wales, means any of the following—
  - (a) a county council;
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) the Receiver for the Metropolitan Police District;
  - (g) a police authority constituted under section 2 of the <sup>M32</sup>Police Act 1964 or a combined police authority established by an amalgamation scheme under that Act;
  - (h) a joint authority established by Part IV of the <sup>M33</sup>Local Government Act 1985; and
  - (i) a residuary body established under Part VII of that Act;
 and, as respects Scotland, means a regional, islands or district council or a joint board or joint committee within the meaning of section 235(1) of the <sup>M34</sup>Local Government (Scotland) Act 1973.
- (7) If, after a commuted payment has been made to a local authority or to the Public Works Loans Commissioners, it appears to the Secretary of State that the payment was smaller or greater than it should have been (whether by virtue of a miscalculation, the occurrence of any event, the failure to comply with any condition or otherwise) the Secretary of State may, as the case may require,—
  - (a) make a further payment to the authority concerned or to those Commissioners; or
  - (b) require the repayment or payment to him by that authority of such sum as he may direct.
- (8) Without prejudice to the operation of the preceding provisions of this section, with respect to—
  - (a) any contribution in respect of an expense incurred on or after 1st April 1990; and

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- (b) so much of any contribution in respect of an expense incurred before that date as has not been made before that date,
- section 569 of the <sup>M35</sup>Housing Act 1985 (contribution by Secretary of State to certain expenses incurred by local housing authorities) shall be amended as follows—
- (i) in subsection (2) (which relates to contributions as annual payments) for the words following “shall be” there shall be substituted the words “equal to the relevant percentage of the amount of the expense incurred”; and
- (ii) subsection (5) (which relates to annual loan charges) shall cease to have effect.
- (9) Without prejudice to the generality of section 230 of the <sup>M36</sup>Local Government Act <sup>M37</sup>1972 or section 235(1) of the Local Government (Scotland) Act 1973 (local authorities’ duty to make reports and returns to the Secretary of State), every local authority and the Inner London Education Authority shall furnish to the Secretary of State such information as he may by notice in writing reasonably require for the purposes of this section and, if the notice so specifies, any such information shall be certified and audited in such manner and supplied not later than such date and in such form as may be so specified.
- (10) Nothing in this section applies in relation to any payments to which, under Part IV of Schedule 15 to the Housing Act 1985 (superseded contributions etc.: town development subsidy), provision already exists for the commutation of payments.

#### Marginal Citations

- M32** 1964 c.48.  
**M33** 1985 c. 51.  
**M34** 1973 c. 65.  
**M35** 1985 c. 68.  
**M36** 1972 c.70.  
**M37** 1973 c. 65.

#### 158 Electronic transfer of documents. **E+W**

- (1) In subsection (2) of section 9 of the <sup>M38</sup>Local Land Charges Act 1975, the words “A requisition under this section must be in writing, and” shall be omitted.
- (2) In subsection (2) of section 14 of that Act after the word “include” there shall be inserted “(a)”, and at the end of that subsection there shall be inserted the following paragraphs—
- “(b) power to make rules providing for the use of electronic means in the making of requisitions for, and in the issue of, official search certificates, notwithstanding subsection (3) of section 231 of the Local Government Act 1972 (service of documents on local authorities) provided that—
- (i) such rules shall not provide that a requisition is duly made by electronic means, except where the local authority to whom it is made consents to the use of those means, or that an official search certificate is duly issued by electronic means, except where the person requiring the search consents to the use of those means; and
- (ii) such consent may be given either generally or in relation to a specified document or description of documents, and either

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- before or after the making of the requisition or the issue of the certificate; and
- (c) power to make rules modifying the application of sections 10 and 11 above in cases where—
- (i) the rules provide for the making of a requisition for, or the issuing of, an official search certificate by electronic means, and
- (ii) there has been any error or failure in those means.”

#### Marginal Citations

M38 1975 c. 76.

### 159 Prevention of continuance or recurrence of default of local authority: Scotland. **E+W+S**

(1) Section 211 of the <sup>M39</sup>Local Government (Scotland) Act 1973 (provision for default of local authority) shall be amended in accordance with this section.

(2) After subsection (2) there shall be inserted the following subsections—

“(2A) If the Secretary of State or appropriate Minister—

- (a) is about to make an order under subsection (2) above; and
- (b) is satisfied that the failure to which the order relates has continued or recurred,

he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2B) The Secretary of State or appropriate Minister may, in an order under subsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the date of the order may be made the subject of an application to the Court of Session under subsection (3A) below.”

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and
- (b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just.”

#### Marginal Citations

M39 1973 c. 65.

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## 160 Welsh language names for local authorities. **E+W**

- (1) For the purpose of enabling local authorities in Wales to be known solely by Welsh language names, the provisions of the <sup>M40</sup>Local Government Act 1972 specified in Schedule 8 to this Act shall be amended in accordance with that Schedule.
- (2) Any reference in the provisions amended by Schedule 8 to this Act to a specially convened meeting of a council is a reference to a meeting of which notice is given as required by Schedule 12 to the Local Government Act 1972 but with the substitution for the words “ three clear days ” in paragraph 4(2) of that Schedule (principal councils) or, as the case may be, paragraph 26(2) (community councils) of “ fourteen clear days ”.

### Marginal Citations

**M40** 1972 c. 70.

### *Miscellaneous housing provisions*

## 161 Housing authorities not required to keep a housing stock. **E+W+S**

- (1) At the end of section 9 of the <sup>M41</sup>Housing Act 1985 (provision of housing accommodation) there shall be added the following subsection—
  - “(5) Nothing in this Act shall be taken to require (or to have at any time required) a local housing authority itself to acquire or hold any houses or other land for the purposes of this Part.”
- (2) At the end of section 2 of the <sup>M42</sup>Housing (Scotland) Act 1987 (powers of local authorities to provide housing accommodation) there shall be added the following subsection—
  - “(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part.”

### Marginal Citations

**M41** 1985 c. 68.

**M42** 1987 c. 26.

## 162 Determination of rents. **E+W**

In section 24 of the Housing Act 1985 (rents), there shall be added at the end the following subsections—

- “(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.
- (4) In subsection (3) “private sector rents”, in relation to houses of any class or description, means the rents which would be recoverable if they were let on

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assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority.”

**163 Exchanges between secure and assured tenants. E+W**

- (1) Section 92 of the Housing Act 1985 (assignment of secure tenancies by way of exchange) shall be amended in accordance with subsections (2) and (3) below.
- (2) At the end of subsection (1) there shall be added the words “ or to an assured tenant who satisfies the conditions in subsection (2A) ”.
- (3) After subsection (2) there shall be inserted the following subsection—
  - “(2A) The conditions to be satisfied with respect to an assured tenant are—
    - (a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and
    - (b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2).”
- (4) In section 117 of the Housing Act 1985 (index of defined expressions for Part IV) before the entry relating to “cemetery” there shall be inserted—
 

“ assured tenancy »section 622 ”.

**164 Exception to the right to buy in case of certain dwelling-houses for persons of pensionable age. E+W**

- (1) In Schedule 5 to the <sup>M43</sup>Housing Act 1985 (exceptions to the right to buy), for paragraph 11 (certain dwelling-houses for persons of pensionable age) there shall be substituted the following paragraph—
  - “11 (1) The right to buy does not arise if the Secretary of State has determined, on the application of the landlord, that it is not to be capable of being exercised with respect to the dwelling-house.
  - (2) The Secretary of State shall so determine if, and only if, he is satisfied that the dwelling-house—
    - (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by persons of pensionable age, and
    - (b) was let to the tenant or a predecessor in title of his for occupation by a person of pensionable age (whether the tenant or predecessor or another person).
  - (3) The Secretary of State shall for the purposes of this paragraph disregard the presence of any feature provided by the tenant or a predecessor in title of his.
  - (4) An application for a determination under this paragraph shall be made within the period for service of the landlord’s notice under section 124 (notice admitting or denying right to buy).



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- (5) This paragraph does not apply unless the dwelling-house concerned was first let before 1st January 1990.”
- (2) Subsection (1) above does not apply in any case where the tenant’s notice claiming to exercise the right to buy was served before the day on which this section comes into force.
- (3) For the purposes of subsection (2) above, no account shall be taken of any steps taken under section 177 of the <sup>M44</sup>Housing Act 1985 (amendment or withdrawal and re-service of notice to correct mistakes).

#### Marginal Citations

M43 1985 c. 68.

M44 1985 c. 68.

### 165 Unfit housing etc. **E+W**

- (1) In the Housing Act 1985,—
- (a) Part VI (repair notices) shall be amended in accordance with Part I of Schedule 9 to this Act;
  - (b) Part IX (slum clearance) shall be amended in accordance with Part II of that Schedule;
  - (c) Part XI (houses in multiple occupation) shall be amended in accordance with Part III of that Schedule;
  - (d) Part XVII (compulsory purchase and land compensation) shall be amended in accordance with Part IV of that Schedule; and
  - (e) Part XVIII (miscellaneous and general) shall be amended in accordance with Part V of that Schedule.
- (2) Part VII of the Housing Act 1985 (improvement notices) shall cease to have effect.
- (3) For any financial year beginning after the day appointed for the coming into force of this subsection the following provisions of this section shall have effect in place of sections 312 to 314 of the Housing Act 1985 (slum clearance subsidy); and in those provisions “slum clearance functions” means any of the functions under the provisions of Part IX of that Act relating to—
- (a) the demolition, closing or purchase of unfit premises,
  - (b) the demolition of obstructive buildings, and
  - (c) clearance areas,
- but does not include functions under sections 308 to 311 of that Act (owner’s redevelopment or improvement).
- (4) On such conditions as he may determine the Secretary of State may pay slum clearance subsidy to a local housing authority in respect of any financial year for which, applying such method of calculation as may be determined by the Secretary of State, the authority have incurred a loss in connection with the exercise of their slum clearance functions; and the rate or rates of the subsidy and the manner in which it is paid shall be such as may be determined by him.
- (5) If for any financial year, applying such method of calculation as is referred to in subsection (4) above, a local housing authority have incurred a surplus in connection

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with the exercise of their slum clearance functions, the Secretary of State may require the authority to pay to him such sum as he may determine in respect of that surplus, together with interest thereon from such time and at such rate or rates as he may determine.

- (6) Any determination of the Secretary of State under subsection (4) or subsection (5) above—
- (a) shall be made with the consent of the Treasury;
  - (b) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area; and
  - (c) may make different provision for different cases or descriptions of case.
- (7) If, before the declaration of a renewal area under Part VII of this Act, a local housing authority are satisfied that the rate of slum clearance subsidy which, in accordance with a determination under subsection (4) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for a subsidy at a higher rate in respect of that area.
- (8) An application under subsection (7) above shall be made in such form and contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.
- (9) If an application under subsection (7) above is approved, the Secretary of State may pay slum clearance subsidy in respect of the area concerned at such higher rate as he may determine under subsection (4) above.

## 166 Amendments relating to defective housing. **E+W+S**

- (1) Part XVI of the <sup>M45</sup>Housing Act 1985 (in this section referred to as “the 1985 Act”) and Part XIV of the <sup>M46</sup>Housing (Scotland) Act 1987 (in this section referred to as “the 1987 Act”) (assistance for owners of defective housing) shall each be amended in accordance with this section.
- (2) In section 537 of the 1985 Act and section 265 of the 1987 Act (determination of form of assistance to which applicant is entitled) in subsection (1) after the word “determine” there shall be inserted “ assoon as reasonably practicable ”.
- (3) In section 539 of the 1985 Act and section 267 of the 1987 Act (meaning of “work required for reinstatement” etc.) after subsection (1) there shall be inserted the following subsection—
 

“(1A) In any case where—

  - (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
  - (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.”

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- (4) In section 561 of the 1985 Act and section 289 of the 1987 Act (Secretary of State’s control over designation, variation or revocation)—
- (a) in subsection (2) after the word “before” there shall be inserted “ the cut-off date or if it is later ” and after the words “twomonths” there shall be inserted “ or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A)below ”;
  - (b) after that subsection there shall be inserted the subsection specified in subsection (5) below; and
  - (c) in subsection (3) for the words “within that period” there shall be substituted “ before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above ”.
- (5) The subsection referred to in subsection (4)(b) above is as follows—
- “(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2)above, the Secretary of State is satisfied that he does not have reasonably sufficient information to enable him to come to a decision with respect to there solution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction.”
- (6) In section 567 of the 1985 Act (modifications of Part XVI in relation to shared ownership leases) for subsections (1) to (3) there shall be substituted the following subsections—
- (1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—
    - (a) a shared ownership lease, or
    - (b) the freehold acquired under the terms of a shared ownership lease,the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.
  - (2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him.”
- (7) Any power of the Secretary of State to make regulations under subsection (4) of section 567 of the 1985 Act shall cease to have effect; and in paragraph (d) of that subsection after the word “class” there shall be inserted “ or description ”.

#### Marginal Citations

M45 1985 c. 68.

M46 1987 c.26.

## 167 Reports to tenants etc. on local housing authority functions. **E+W**

- (1) In accordance with the provisions of this section, every local housing authority shall, for each year, furnish to each person who at the end of that year is one of their housing revenue account tenants a report containing such information as may be determined

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by the Secretary of State relating to the functions of the authority as a local housing authority during that year (including functions which in that year were exercised by any other person as agent of the authority).

- (2) In this section “year” means a period of twelve months beginning on 1st April; and the report relating to any year shall be furnished as soon as practicable after the end of that year and, in any event, not later than six months after the end of that year.
- (3) In this section “housing revenue account tenant”, in relation to a local housing authority, means a person who, as tenant or licensee, occupies a house or other property within the authority’s Housing Revenue Account; and, in the case of joint tenants or joint licensees, it shall be a sufficient compliance with the obligation under subsection (1) above to furnish each housing revenue account tenant with a report that a single copy of it is furnished to the tenants or licensees jointly.
- (4) At the same time as they furnish a report under this section to their housing revenue account tenants, a local housing authority shall send a copy of the report to the Secretary of State.
- (5) The power to make a determination under subsection (1) above may be so exercised as to make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities.
- (6) The reference in subsection (3) above to a house or other property within an authority’s Housing Revenue Account shall be construed in accordance with section 74(5) above.
- (7) In this section “tenant” has the same meaning as in the <sup>M47</sup>Housing Act 1985.
- (8) Before making a determination under this section, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.

#### Marginal Citations

M47 1985 c.68.

### 168 Contributions towards costs of housing mobility arrangements. **E+W+S**

- (1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for enabling or assisting persons to move and become,—
  - (a) in England and Wales, tenants or licensees of dwellings; and
  - (b) in Scotland, tenants of houses.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine and may be made so as to be repayable or, as the case may be, repayable earlier if there is a breach of such a condition.
- (3) In this section—
 

“dwelling” means a building or a part of a building occupied or intended to be occupied as a separate dwelling;

“house” has the same meaning as in the <sup>M48</sup>Housing (Scotland) Act 1987;

and

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“tenant” does not include a tenant under a long lease within the meaning of the <sup>M49</sup>Landlord and Tenant Act 1987 or, as respects Scotland, under a lease for a period exceeding 20 years.

- (4) Section 107 of the <sup>M50</sup>Housing Act 1985 and section 80 of the Housing (Scotland) Act 1987 (which make provision similar to that made by the preceding provisions of this section, but limited to secure tenants) shall cease to have effect.

#### Marginal Citations

**M48** 1987 c.26.

**M49** 1987 c. 31.

**M50** 1985 c. 68.

### 169 Powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them. **E+W**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.
- (2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—
- works to cause the dwelling to be fit for human habitation,
  - where the occupant is disabled, works for any of the purposes specified in section 114(3) or (4) above,
  - works for any of the purposes specified in section 115(3) above, and
  - works for any of the purposes specified in or under section 131(1) above.
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
- to consider whether or not to make a charge for exercising it; and
  - to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
- any housing association,
  - any charity, or
  - any body, or body of any description, approved by the Secretary of State,
- towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
- in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and

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- (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—
- (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
  - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.
- (9) In this section—
- “charity” means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court’s jurisdiction with respect to charities;
- “housing association” means a housing association within the meaning of section 1(1) of the <sup>M51</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);
- “local housing authority” shall be construed in accordance with section 1 of the <sup>M52</sup>Housing Act 1985; and
- “relevant authority” means a local housing authority or county council.

#### Marginal Citations

**M51** 1985 c. 69.

**M52** 1985 c. 68.

## 170 Powers of local authorities and Secretary of State as respects services, etc., for owners and occupiers of houses for work on them: Scotland. **E+W+S**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of houses in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.

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- (2) Relevant works are such works as may be specified in regulations made by the Secretary of State and such works may be so specified by reference to such factors (including factors relating to persons of such descriptions as may be so specified) as the Secretary of State thinks fit.
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
  - (a) to consider whether or not to make a charge for exercising it; and
  - (b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
  - (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Secretary of State,towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of houses in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
  - (a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—
    - (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
    - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.
- (9) In this section—

“charity” means any body, corporate or not, established for charitable purposes;

“charitable purposes” shall be construed in the same way as if it were contained in the Income Tax Acts;

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“house” has the meaning given by section 338 of the <sup>M53</sup>Housing (Scotland) Act 1987;

“housing association” means a housing association within the meaning of section 1(1) of the <sup>M54</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);

“relevant authority” means a regional, islands or district council.

#### Marginal Citations

**M53** 1987c. 26.

**M54** 1985 c. 69.

### 171 Winding up of home purchase assistance scheme. **E+W+S**

- (1) The Secretary of State may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which—
  - (a) as respects England and Wales, is contained in sections 445 to 450 of the <sup>M55</sup>Housing Act 1985, and
  - (b) as respects Scotland, is contained in sections 222 to 227 of the Housing (Scotland) Act 1987,
 and in the following provisions of this section, the enactments specified in paragraphs (a) and (b) above together with any orders and directions made under those enactments are referred to as “the assistance legislation”.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection—
  - (a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;
  - (b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number of payments of such amount and payable at such time or times as may be determined in accordance with the order; and
  - (c) may provide for the amendment or repeal, in whole or in part, of the assistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.
- (3) The following powers, namely,—
  - (a) the powers conferred on the Secretary of State by subsection (3) of section 446 of the Housing Act 1985 and subsection (3) of section 223 of the Housing (Scotland) Act 1987 to relax or modify the conditions in subsection (2) of each of those sections respectively (conditions qualifying a purchaser for assistance), and
  - (b) any power to make an order under any provision of the assistance legislation, may be so exercised as to make provision for the purpose referred to in subsection (1) above.



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- (4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M55 1985 c. 68.

### 172 Transfer of new town housing stock. **E+W**

- (1) Subject to the following provisions of this section, the Secretary of State may by regulations make provision for requiring and authorising each new town corporation to take such steps as may be prescribed for making and giving effect to proposals for disposing of their housing stock, either by transferring it as a whole to a prescribed person or by transferring different parts of it to different prescribed persons.
- (2) Regulations under subsection (1) above shall not require a new town corporation to transfer any dwelling or associated property, rights, liabilities or obligations to any person other than—
- (a) the district council within whose district the dwelling is situated; or
  - (b) a person approved for the purposes of, and in accordance with, the regulations by the Housing Corporation or Housing for Wales.
- (3) Regulations under subsection (1) above shall not require a new town corporation to give effect to a proposal for the transfer of any dwelling if the dwelling is one in respect of which a notice has been served under section 122 of the <sup>M56</sup>Housing Act 1985 (notice of a claim to exercise the right to buy) before the prescribed time and such other conditions as maybe prescribed are satisfied.
- (4) A new town corporation shall not, in pursuance of any regulations under subsection (1) above, transfer any dwellings, or any associated property, rights, liabilities or obligations, to any person except with the consent of the Secretary of State; and the Secretary of State shall not give his consent to a proposed transfer unless he is satisfied—
- (a) that there has been compliance with all such requirements with respect to the publication of information about the proposal and matters connected with its implementation, and with respect to consultation about the proposal, as are prescribed;
  - (b) that all such steps have been taken as are prescribed for the purpose of protecting the interests of the occupiers of the dwellings or the interests of the occupiers of any dwellings excluded from the proposal by virtue of subsection (3) above or any such consultation; and
  - (c) that the terms on which the transfer is made—
    - (i) require such price to be paid for the property transferred as appears to him to be the price which, on the prescribed assumptions, it would realise if sold on the open market by a willing vendor; and
    - (ii) include all such other terms as are prescribed.
- (5) Regulations under subsection (1) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate, including,

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without prejudice to the generality of the foregoing, provision corresponding to subparagraphs (2) and (3) of paragraph 2 of Schedule 12 to the <sup>M57</sup>Housing Act 1988 (matters relating to registration of title).

(6) Subject to subsection (7) below, Part III of the <sup>M58</sup>New Towns Act 1981 (transfer of dwellings and associated property to district councils) shall cease to have effect.

(7) Nothing in subsection (6) above shall—

- (a) affect the operation after the time when that subsection comes into force of so much of any transfer scheme made under Part III of the said Act of 1981 before that time as contains management arrangements with respect to land in which a new town corporation have an interest;
- (b) affect the application after that time of section 50 of that Act (financial arrangements) in relation to any transfer scheme made under that Part before that time; or
- (c) prevent the Secretary of State from exercising his power to make grants to a district council under section 51A of that Act (grants in respect of defects in transferred dwellings) where the grants are paid before the 1st April 1990 or such later date as the Secretary of State may by order made by statutory instrument appoint in relation to that council;

and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section—

“dwelling” means any building or part of a building occupied, or erected or adapted for occupation, as a dwelling or as a hostel (including any land belonging to it or usually enjoyed with it);

“housing stock”, in relation to a new town corporation, means—

- (a) the dwellings (whether or not in the area of a particular new town) which are vested in that corporation and were erected, adapted or acquired for occupation as dwellings; and
- (b) except so far as may be prescribed, any associated property, rights, liabilities and obligations of that corporation;

“liabilities and obligations”, in relation to a new town corporation, includes liabilities and obligations which, apart from the regulations, would not be capable of being assigned or transferred by the corporation, including liabilities and obligations under Part V of the <sup>M59</sup>Housing Act 1985 (the right to buy);

“new town corporation” means the Commission for the New Towns, the Development Board for Rural Wales or a development corporation, within the meaning of the New Towns Act 1981; and

“prescribed” means prescribed by or determined under regulations under subsection (1) above.

(9) For the purposes of this section the following property, rights, liabilities and obligations of a new town corporation shall be treated as associated with any dwellings comprised in their housing stock, that is to say—

- (a) any interest of the corporation in any land occupied or set aside for occupation or use with the dwellings;
- (b) any interest of the corporation in land in the vicinity of the dwellings which is held by them for the benefit or use of the persons living in those dwellings (rather than the inhabitants of a new town as a whole) or for providing facilities

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- for the persons living in those dwellings, and any other property and any rights of the corporation so held;
- (c) any property and rights held by the corporation—
    - (i) for the administration of an estate comprising the dwellings or any associated property;
    - (ii) for the maintenance or service of the dwellings or any associated property; or
    - (iii) otherwise in connection with any such property;
  - (d) any rights, liabilities and obligations which the corporation have in connection with any of the dwellings or any associated property or in connection with any dwellings which were previously part of their housing stock;
  - (e) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of persons living in the dwellings (rather than for the use of the inhabitants of a new town as a whole).

#### Marginal Citations

- M56 1985 c. 68.
- M57 1988 c. 50.
- M58 1981 c. 64.
- M59 1985 c. 68.

### 173 Consent required for subsequent disposals. **E+W**

- (1) Where a dwelling which is for the time being subject to a secure tenancy is transferred under section 172 above to a person approved as mentioned in subsection (2)(b) of that section (in this section referred to as an “approved person”), that person shall not dispose of it except—
  - (a) with the consent of the Secretary of State, which may be given either unconditionally or subject to conditions; or
  - (b) by an exempt disposal, as defined in section 81(8) of the <sup>M60</sup>Housing Act 1988; and any reference in the following provisions of this section to an initial transfer is a reference to the transfer of a dwelling to an approved person under section 172 above.
- (2) Where an estate or interest in a dwelling of the approved person who acquired it on the initial transfer has been mortgaged or charged, the prohibition in subsection (1) above 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, the dwelling which has been acquired on the initial transfer passes or is transferred from the approved person to another person, and
  - (b) that passing or transfer does not constitute a disposal for which consent is required under this section,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 dwelling passes or is transferred were the approved person.
- (3) Where subsection (1) above applies—

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- (a) the new town corporation by whom the initial transfer is made shall furnish to the approved person a copy of the consent of the Secretary of State under section 172(4) above; and
  - (b) the instrument by which the initial transfer is effected shall contain a statement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the dwelling by the approved person.
- (4) For the purposes of this section the grant of an option to purchase the fee simple or any other interest in a dwelling is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.
- (5) Before giving any consent required by virtue of this section, 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 dwelling 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 Housing Corporation or Housing for Wales would be required under section 9 of the <sup>M61</sup>Housing Associations Act 1985 (control of dispositions of land by housing associations) for a disposal in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.
- (7) No consent shall be required under the said section 9 for any disposal in respect of which consent is given in accordance with subsection (6) above.
- (8) Where the title of the new town corporation to the dwelling which is transferred by the initial transfer is not registered, and the initial transfer is a conveyance, grant or assignment of a description mentioned in section 123 of the <sup>M62</sup>Land Registration Act 1925 (compulsory registration of title)—
- (a) that section applies in relation to the instrument by which the initial transfer is effected, whether or not the dwelling is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force;
  - (b) the corporation shall give the approved person a certificate in a form approved by the Chief Land Registrar stating that the corporation is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the initial transfer is effected 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 corporation by whom the initial transfer was made is liable to indemnify him.
- (9) On an application being made for registration of a disposition of registered land or, as the case may be, of the title under a disposition of unregistered land, if the instrument by which the initial transfer is effected contains the statement required by subsection (3) 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.
- (10) In this section—
- (a) “dwelling” and “new town corporation” have the same meaning as in section 172 above; and

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- (b) “secure tenancy” has the meaning assigned by section 79 of the <sup>M63</sup>Housing Act 1985.

**Marginal Citations**

- M60** 1988 c.50.  
**M61** 1985 c. 69.  
**M62** 1925 c. 21.  
**M63** 1985 c. 68.

**174 Payment of disposal cost by instalments. E+W**

- (1) Part IV of the <sup>M64</sup>Housing Act 1988 (change of landlord: secure tenants) shall be amended in accordance with this section.
- (2) At the end of section 99 (determination of purchase price) there shall be added the following subsections—
- “(7) In a notice under subsection (1) above or by a separate notice given to the applicant not later than seven days after the date of a determination under subsection (6) above, the landlord may notify the applicant that if there is a disposal cost which is such that, in accordance with regulations under section 104(2A) below, it may be paid by instalments, the landlord intends to pay that cost by instalments.
- (8) Where the landlord notifies the applicant as mentioned in subsection (7) above, he shall furnish to the applicant, in such form and certified in such manner as may be prescribed, such information as may be prescribed in order to enable the applicant to consider the application of the regulations to the disposal cost and to assess the likely effect of the payment by instalments.”
- (3) In section 103 (notice by applicant of intention to proceed), in subsection (4) at the end of paragraph (d) the word “and” shall be omitted and at the end of paragraph (e) there shall be added “and
- (f) if there is a disposal cost attributable to that property and the landlord has notified the applicant as mentioned in section 99(7) above of his intention to pay the disposal cost by instalments, either a statement of the basis on which, in accordance with regulations under section 104(2A) below, the disposal cost is to be paid by instalments or a statement that the disposal cost is not such that those regulations permit it to be paid by instalments”.
- (4) In section 104 (duty to complete and consequences of completion) after subsection (2) there shall be inserted the following subsection—
- “(2A) In such cases as may be prescribed and where the applicant has been notified as mentioned in section 99(7) above, a disposal cost may be paid by instalments of such amounts (which may include interest) and payable at such times and over such period as may be prescribed.”

**Marginal Citations**

- M64** 1988 c. 50.

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## 175 Repeal of the Town Development Act 1952. **E+W**

No undertaking shall be given under section 2 or 4 of the <sup>M65</sup>Town Development Act 1952 (Government and local authority contributions for the purposes of town development), and no payment shall be made in pursuance of any such undertaking, at any time after 31st March 1990; and that Act shall cease to have effect except for the purposes of any town development (within the meaning of that Act) in relation to which any undertaking has been given before that date under section 2 of that Act.

### Marginal Citations

**M65** 1952 c.54.

## 176 Amendment of definition of occupation for purposes of purchase of house by secure tenant: Scotland. **E+W+S**

(1) In section 61(10) of the <sup>M66</sup>Housing (Scotland) Act 1987 (definition of occupation of house for purposes of purchase by secure tenant)—

- (a) in paragraph (a)(v) (occupation by member of tenant’s family succeeding to tenancy may be treated, at discretion of landlord, as occupation for purposes of right to buy) the words “in the discretion of the landlord” shall be omitted; and
- (b) in paragraph (b) (rules for determining period of occupation) there shall be added at the end—

“and

(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.”.

(2) This section does not apply in any case where the application to purchase the house under section 63(2) of that Act has been served before the coming into force of this section.

### Marginal Citations

**M66** 1987 c. 26.

## 177 Sale to secure tenants of houses provided for persons of pensionable age: Scotland. **E+W+S**

In section 69 of the Housing (Scotland) Act 1987 (Secretary of State’s power to authorise refusal to sell certain houses provided for persons of pensionable age) after subsection (1) there shall be inserted the following subsection—

“(1A) This section applies only to houses first let on a secure tenancy before 1st January 1990.”

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**178 Application of secure tenant’s right to buy to cases where landlord is lessee:  
Scotland. E+W+S**

(1) In section 76 of the Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants)—

- (a) in subsection (1)(a)—
  - (i) for the word “not” there shall be substituted the word “neither”; and
  - (ii) after the word “house” there shall be inserted the words “nor hold the interest of the landlord under a registered lease of the house or of land which includes it”;
- (b) in subsection (2) for the words “heritable proprietor of the house” there shall be substituted the words “either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it”; and
- (c) in subsection (3)(b) at the end there shall be inserted the words “or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it.”

(2) After section 84 of that Act there shall be inserted the following section—

**“84A Application of right to buy to cases where landlord is lessee.**

- (1) Sections 61 to 84 (but not 76 or 77) and 216 (the “right to buy” provisions) shall, with the modifications set out in this section, apply so as to provide for—
  - (a) the acquisition by the tenant of a house let on a secure tenancy of the landlord’s interest in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that interest; and
  - (b) the obtaining of a loan by the tenant in that connection,as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.
- (2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord’s interest in the house by way of a registered assignment of that interest and cognate expressions shall be construed accordingly.
- (3) The reference in section 61(2)(b) to the landlord’s being the heritable proprietor of the house shall be construed as a reference to the landlord’s being the holder of the interest of the lessee under a registered lease of the house or of land which includes it.
- (4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord’s interest in the house and to the price to be paid for acquiring that interest.
- (5) References in section 64(1) to the tenant’s enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord’s interest in the house.
- (6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a

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third party shall be construed as a reference to an option being offered to have the interest acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.

(7) In this section and section 76—

“registered lease” means a lease—

- (a) which is recorded in the general register of sasines; or
- (b) in respect of which the interest of the lessee is registered in the Land Register of Scotland

under the Registration of Leases (Scotland) Act 1857; and

“registered assignment” means, in relation to such a lease, an assignment thereof which is so recorded or in respect of which the interest of the assignee has been so registered.”

## 179 Amendment of powers of Scottish Homes to dispose of land. **E+W+S**

(1) In section 2 of the <sup>M67</sup>Housing (Scotland) Act 1988 (which, amongst other things, enables Scottish Homes to dispose of land)—

- (a) in subsection (2) (powers of Scottish Homes), after “(3)” there shall be inserted “ and (3A) ”;
- (b) in subsection (3)(b)—
  - (i) after “above” there shall be inserted the words “, other than the power under paragraph (h) to dispose of land, ”; and
  - (ii) for the word “with” where secondly occurring there shall be substituted the words “ between it and ”;
- (c) after subsection (3) there shall be inserted the following subsection—

“(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent may be given in relation to particular cases or classes of case and may be made subject to conditions).”; and

- (d) subsection (6) (certain land not to be disposed of, without consent, for less than best price) shall be omitted.

### Marginal Citations

M67 1988 c. 43.

## 180 Race relations: codes of practice in housing field. **E+W+S**

The amendments of section 47 of the <sup>M68</sup>Race Relations Act 1976 (codes of practice) made by subsections (2) and (3) of section 137 of the <sup>M69</sup>Housing Act 1988 (codes of practice in the field of rented housing) shall be varied as follows—

- (a) in subsection (1)(c) of the said section 47 the words following “field of housing” shall be omitted; and
- (b) the word “rented”, where it occurs in subsections (1)(d) and (3A) of that section, shall be omitted.



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#### Marginal Citations

M68 1976 c. 74.

M69 1988 c. 50.

### 181 Duty of landlord to inform secure tenant seeking to buy house about changes in law: Scotland. **E+W+S**

In section 76 of the <sup>M70</sup>Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants) there shall be added at the end the following subsections—

“(4) Where—

- (a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and
- (b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

- (5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change.”

#### Marginal Citations

M70 1987 c. 26.

#### *Other provisions*

### 182 Power to monitor activities of registered housing associations. **E+W+S**

In Part I of the <sup>M71</sup>Housing Associations Act 1985 (regulation of housing associations) after section 27 there shall be inserted the following section—

#### “27A Power of Corporation to monitor associations.

- (1) If at any time required to do so by the Corporation,—
  - (a) a registered housing association shall produce to a person authorised in that behalf by the Corporation such books, accounts and other

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- documents relating to the association’s business as may be specified by the Corporation; and
- (b) any officer, employee or member of the committee of the registered housing association shall provide an explanation of any such books, accounts and other documents.
- (2) Where, by virtue of subsection (1), any books, accounts or other documents are produced to a person authorised in that behalf by the Corporation, he may take copies of or make extracts from them.
- (3) In the application of this section to a registered housing association which is a charity,—
- (a) the reference in subsection (1)(a) to the association’s business shall be construed as a reference to its housing activities; and
- (b) the reference to a member of the committee includes a reference to a trustee of the association.”

#### Marginal Citations

M71 1985 c. 69.

### 183 Extension of powers of Housing Corporation and Housing for Wales to give financial assistance. **E+W**

For section 87 of the <sup>M72</sup>Housing Associations Act 1985 (grants towards expenses in promoting or assisting registered housing associations) there shall be substituted the following section—

#### “87 Financial assistance with respect to formation, management, etc. of certain housing associations.

- (1) The Corporation may give financial assistance to any person in respect of the following activities—
- (a) promoting and giving advice on the formation of registered housing associations and co-operative housing associations (in this section referred to collectively as “relevant associations”);
- (b) managing, providing services for, and giving advice on the running of, relevant associations; and
- (c) assisting tenants and licensees of a relevant association to take part in the management of the association or of some or all of the dwellings provided by the association.
- (2) Assistance under this section may be in the form of grants, loans, guarantees or incurring expenditure for the benefit of the person assisted or in such other way as the Corporation considers appropriate, except that the Corporation may not, in giving any form of financial assistance, purchase loan or share capital in a company.
- (3) With respect to financial assistance under this section, the following—
- (a) the procedure to be followed in relation to applications for assistance,
- (b) the circumstances in which assistance is or is not to be given,

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- (c) the method for calculating, and any limitations on, the amount of assistance, and
- (d) the manner in which, and the time or times at which, assistance is to be given,

shall be such as may be specified by the Corporation, acting in accordance with such principles as it may from time to time determine.

- (4) In giving assistance under this section, the Corporation may provide that the assistance is conditional upon compliance by the person to whom the assistance is given with such conditions as it may specify.
- (5) Where assistance under this section is given in the form of a grant, subsections (1), (2) and (7) to (9) of section 52 of the Housing Act 1988 (recovery, etc. of grants) shall apply as they apply in relation to a grant to which that section applies, but with the substitution, for any reference in those subsections to the registered housing association to which the grant has been given, of a reference to the person to whom assistance is given under this section.
- (6) Section 53 of the Housing Act 1988 (determinations under Part II) shall apply in relation to a determination under this section as it applies to a determination under sections 50 to 52 of that Act.”

#### Marginal Citations

M72 1985 c. 69.

### 184 Extension of functions of Audit Commission. **E+W**

(1)

<sup>F1</sup>(2) In section 29 of that Act (miscellaneous functions of Commission) in subsection (1)—

- (a) in paragraph (a) after the words “Minister of the Crown” there shall be inserted “or public authority”;
- (b) at the end of paragraph (c) there shall be inserted the words “or
  - (0) for certifying any return by the body which, by or under any enactment, is required or authorised to be certified by the body’s auditor or under arrangements made by the Commission”; and
- (c) at the end there shall be added the words “and in paragraph (a) above “public authority” means a body established by or under the Treaties or by or under any enactment”.

(3)<sup>F1</sup>

#### Textual Amendments

**F1** S. 184(1)(3) repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10

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## 185 Publication of reports of Controller of Audit: Scotland. **E+W+S**

In section 102 of the <sup>M73</sup>Local Government (Scotland) Act 1973 (reports to Commission for Local Authority Accounts by Controller of Audit)—

- (a) in subsections (1) and (2) there shall, in each case, be added at the end the words “ and may send a copy of any report so made to any other person he thinks fit ”; and
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection.”

### Marginal Citations

M73 1973 c. 65.

## 186 Security of tenure on ending of long residential tenancies. **E+W**

- (1) Schedule 10 to this Act shall have effect (in place of Part I of the <sup>M74</sup>Landlord and Tenant Act 1954) to confer security of tenure on certain tenants under long tenancies and, in particular, to establish assured periodic tenancies when such long tenancies come to an end.
- (2) Schedule 10 to this Act applies, and section 1 of the Landlord and Tenant Act 1954 does not apply, to a tenancy of a dwelling-house—
  - (a) which is a long tenancy at a low rent, as defined in Schedule 10 to this Act; and
  - (b) which is entered into on or after the day appointed for the coming into force of this section, otherwise than in pursuance of a contract made before that day.
- (3) If a tenancy—
  - (a) is in existence on 15th January 1999, and
  - (b) does not fall within subsection (2) above, and
  - (c) immediately before that date was, or was deemed to be, a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954,
 then, on and after that date (and so far as concerns any notice specifying a date of termination on or after that date and any steps taken in consequence thereof), section 1 of that Act shall cease to apply to it and Schedule 10 to this Act shall apply to it unless, before that date, the landlord has served a notice under section 4 of that Act specifying a date of termination which is earlier than that date.
- (4) The provisions of Schedule 10 to this Act have effect notwithstanding any agreement to the contrary, but nothing in this subsection or that Schedule shall be construed as preventing the surrender of a tenancy.
- (5) Section 18 of the Landlord and Tenant Act 1954 (duty of tenants of residential property to give information to landlords or superior landlords) shall apply in relation to property comprised in a long tenancy at a low rent, within the meaning of Schedule 10 to this Act, as it applies to property comprised in a long tenancy at a low rent within the meaning of Part I of that Act, except that the reference in that section to subsection (1)

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of section 3 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 3 of Schedule 10 to this Act.

- (6) Where, by virtue of subsection (3) above, Schedule 10 to this Act applies to a tenancy which is not a long tenancy at a low rent as defined in that Schedule, it shall be deemed to be such a tenancy for the purposes of that Schedule.

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

C3 S. 186 modified by S.I. 1990/776, arts. 2(2), 5(2)(b)

**Marginal Citations**

M74 1954 c. 56.

**187 Construction industry: grants and guarantees. E+W**

- (1) The Secretary of State may, for the purpose of promoting or facilitating the carrying on of any of the activities specified in subsection (2) below, do one or both of the following, that is to say—
- (a) make grants to any person who carries on any such activities;
  - (b) guarantee the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with sums borrowed temporarily by any such person.
- (2) The activities mentioned in subsection (1) above are—
- (a) the assessment of, and of applications of, materials, products, systems and techniques used or proposed for use in the construction industry; and
  - (b) the issue of certificates, promotion of common standards and publication of information with respect to any such materials, products, systems or techniques.
- (3) The consent of the Treasury shall be required for the exercise by the Secretary of State of his power under this section to make a grant or give a guarantee; but, subject to that consent and to the following provisions of this section, that power shall be a power to make a grant or give a guarantee in such manner and on such conditions as he thinks fit.
- (4) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (5) Where any sums are paid out in fulfilment of a guarantee given under this section in respect of any person's borrowing, that person shall make to the Secretary of State, at such times and in such manner as the Secretary of State may, with the consent of the Treasury, from time to time direct—
- (a) payments, of such amounts as the Secretary of State may so direct, in or towards repayment of those sums; and
  - (b) payments of interest, at such rate as the Secretary of State may so direct, on what is outstanding for the time being in respect of those sums.
- (6) As soon as possible after the end of any financial year in which—
- (a) any sums are paid out in fulfilment of a guarantee given under this section, or
  - (b) any liability in respect of the principal of sums so paid out, or in respect of interest on any such sums, is outstanding,

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the Secretary of State shall lay before each House of Parliament a statement relating to the sums.

**188 Repeal of s. 2 of the Education (Grants and Awards) Act 1984. E+W**

Section 2 of the <sup>M75</sup>Education (Grants and Awards) Act 1984 (limit on expenditure approved for grant purposes) shall not apply in relation to any expenditure approved for the financial year beginning with 1st April 1990 or any subsequent financial year.

**Marginal Citations**

M75 1984 c. 11.

**189 Grants by Secretary of State towards costs of magistrates' courts etc. E+W**

- (1) Section 59 of the Justices of the <sup>M76</sup>Peace Act 1979 (grants by Secretary of State to responsible authorities) shall be amended in accordance with this section.
- (2) In subsection (1), in paragraph (a) the words “or this Part” shall be omitted and at the end of the subsection there shall be added “and
  - (c) of their functions under this Part of this Act or, in the case of the Receiver, his corresponding functions”.
- (3) In subsection (3) after the word “section” there shall be inserted “ towards the net cost to a responsible authority in any year of the matters mentioned in paragraphs (a) and (b) of subsection (1) above ” and for the words from “the expenditure” onwards there shall be substituted “ that net cost ”.
- (4) After subsection (4) there shall be inserted the following subsection—
 

“(4A) In determining the amount of the grant towards the net cost of the functions referred to in subsection (1)(c) above, the Secretary of State may disregard, in whole or in part, such items of expenditure as he thinks fit.”

**Marginal Citations**

M76 1979 c. 55.

*Supplementary*

**190 Regulations. E+W+S**

- (1) Under any power to make regulations conferred by any provision of this Act, different provision may be made for different cases and different descriptions of cases (including different provision for different areas).
- (2) Any power to make regulations conferred by any provision of this Act shall be exercisable by statutory instrument which, except in the case of a statutory instrument containing regulations under section 150 or section 151 or Schedule 10, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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## **191 Separate provisions for Wales. E+W**

- (1) Where any provision of this Act which extends to England and Wales confers (directly or by amendment of another Act) a power on the Secretary of State to make regulations, orders, rules or determinations or to give directions or specify any matter, the power may be exercised differently for England and Wales, whether or not it is exercised separately.
- (2) This section is without prejudice to section 190(1) above and to any other provision of this Act or of any Act amended by this Act by virtue of which powers may be exercised differently in different cases or in any other circumstances.

## **192 Financial provisions. E+W+S**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required for the payment by the Secretary of State of grants, subsidies or contributions under this Act;
  - (b) any sums required by the Secretary of State for fulfilling any guarantees under this Act;
  - (c) any other expenses of the Secretary of State under this Act; and
  - (d) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

## **193 Application to Isles of Scilly. E+W**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) 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.

## **194 Amendments and repeals. E+W+S**

- (1) Schedule 11 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Part I of Schedule 12 to this Act, which relate to or are superseded by the provisions of Part IV of this Act, are hereby repealed to the extent specified in the third column of that Schedule; and the Secretary of State may by order made by statutory instrument make provision (in consequence of the said Part IV) amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act.
- (3) In subsection (2) above “Act” includes a private or local Act and a statutory instrument by which the power in that subsection is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (4) The other enactments specified in Part II of Schedule 12 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule.

**195 Short title, commencement and extent. E+W+S**

- (1) This Act may be cited as the Local Government and Housing Act 1989.
- (2) The provisions of sections 1 and 2, 9, 10, 13 to 20 above, Parts II to V (with the exception in Part II of section 24), VII and VIII and (in this Part) sections 140 to 145, 156, 159, 160, 162, 164, 165, 167 to 173, 175 to 180, 182 and 183, 185, 186 and 194, except in so far as it relates to paragraphs 104 to 106 of Schedule 11, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.
- (4) Subject to subsection (5) below, this Act, except Parts I and II and sections 36(9), 140 to 145, 150 to 152, 153, 155, 157, 159, 161, 166, 168, 170, 171, 176 to 182, 185, 190, 192, 194(1), 194(4) and this section, extendsto England and Wales only.
- (5) Notwithstanding anything in subsection (4) above, any provision of Schedule 11 or Part II of Schedule 12 to this Act which amends or repeals any provision of the following enactments does not extend to Scotland—
- (a) the <sup>M77</sup>Military Lands Act 1892;
  - (b) the <sup>M78</sup>Local Authorities (Expenditure Powers) Act 1983.
- (6) This Act does not extend to Northern Ireland.

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

**C4** Power of appointment conferred by s. 195(2) partly exercised: [S.I. 1989/2180](#), 2186, 2445, 1990/191, 431, 762, 961, 1274, 1335,1552, 2581

**Marginal Citations**

**M77** [1892 c. 43.](#)

**M78** [1983 c. 52.](#)



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