



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART VIII

#### GRANTS TOWARDS COST OF IMPROVEMENTS AND REPAIRS ETC.

##### *Introductory*

#### **101 Grants for improvements and repairs.**

- (1) In accordance with this Part, grants are payable by local housing authorities towards the cost of works required—
- (a) for the improvement or repair of dwellings, houses in multiple occupation or the common parts of buildings containing one or more flats; and
  - (b) for the provision of dwellings or houses in multiple occupation by the conversion of a house or other building; and
  - (c) for the provision of facilities for disabled persons in dwellings and in the common parts of buildings containing one or more flats.
- (2) In this Part—
- (a) a grant relating to the improvement or repair of a dwelling or to the provision of dwellings by the conversion of a house or other building is referred to as a “renovation grant”; and
  - (b) a grant relating to the improvement or repair of the common parts of a building is referred to as a “common parts grant”; and
  - (c) a grant for the provision of facilities for a disabled person in a dwelling or in the common parts of a building containing one or more flats is referred to as a “disabled facilities grant”; and
  - (d) a grant for the improvement or repair of a house in multiple occupation or for the provision of a house in multiple occupation by the conversion of a house or other building is referred to as an “HMO grant”;

and in the following provisions of this Part the expression “grant”, without more, means any of these types of grant.

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- (3) No grant is payable under this Part if the person who would otherwise qualify as the applicant for the grant is—
- (a) a local authority;
  - (b) a new town corporation;
  - (c) an urban development corporation;
  - (d) a housing action trust;
  - (e) the Development Board for Rural Wales;
  - [<sup>F1</sup>(ea) a police authority established under section 3 of the <sup>M1</sup>Police Act 1964;]
  - (f) a joint authority established by Part IV of the <sup>M2</sup>Local Government Act 1985;
  - (g) a residuary body established by Part VII of that Act; or
  - (h) an authority established under section 10(1) of that Act (waste disposal).
- (4) Expressions used in paragraphs (a) to (d) of subsection (3) above have the meanings assigned by section 4 of the <sup>M3</sup>Housing Act 1985.
- (5) The provisions of this Part have effect in place of the provisions of Part XV of the Housing Act 1985 (grants for works of improvement, repair and conversion), other than section 523 thereof (assistance for provision of separate service pipe for water supply), and, without prejudice to the generality of subsection (3) of section 195 below,
- (a) any application made under section 461 of that Act which has not been approved by the local housing authority before the day appointed under section 195 below for the coming into force of this section shall be of no effect on and after that day; and
  - (b) any application under section 521 of that Act (schemes for grants for thermal insulation) in respect of which the applicant has not been notified before the day so appointed that he may proceed to execute works in accordance with a scheme under that section shall be of no effect on and after that day.

#### Textual Amendments

**F1** S. 101(3)(ea) inserted (1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 para. 40**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

#### Marginal Citations

**M1** 1964 c. 48.  
**M2** 1985 c. 51.  
**M3** 1985 c. 68.

## 102 Applications for grants.

- (1) No grant shall be paid unless an application for it is made to the local housing authority concerned in accordance with the provisions of this Part and is approved by them.
- (2) An application for a grant shall be in writing and shall specify the premises to which it relates and contain—
  - (a) particulars of the works in respect of which the grant is sought (in this Part referred to as “the relevant works”);

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- (b) unless the local housing authority otherwise direct in any particular case, at least two estimates from different contractors of the cost of carrying out the relevant works;
  - (c) particulars of any preliminary or ancillary services and charges in respect of the cost of which the grant is also sought; and
  - (d) such other particulars as may be prescribed.
- (3) In this Part “preliminary or ancillary services and charges”, in relation to an application for a grant, means services and charges which—
- (a) relate to the application and the preparation for and the carrying out of works; and
  - (b) are specified for the purposes of this subsection by the Secretary of State.
- (4) The Secretary of State may by regulations prescribe a form of application for a grant and an application for a grant to which any such regulations apply shall not be validly made unless it is in the prescribed form.

#### *Preliminary conditions*

### **103 The age of the property.**

- (1) A local housing authority may not entertain an application for a grant, other than a disabled facilities grant, unless they are satisfied that, at the date of the application, the dwelling, common parts or house or other building concerned was provided not less than the relevant period before that date.
- (2) In subsection (1) above—
- (a) “provided” means provided by construction or conversion; and
  - (b) “the relevant period” means ten years or such other period as the Secretary of State may by order provide.

### **104 The interest of the applicant in the property.**

- (1) Subject to subsection (4) and section 136 below, a local housing authority may not entertain an application for a grant, other than a common parts grant, unless they are satisfied that—
- (a) the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out; or
  - (b) in the case of an application for a renovation grant (other than an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building), the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
  - (c) in the case of an application for a disabled facilities grant in respect of works to a dwelling, the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
  - (d) in the case of an application for a disabled facilities grant in respect of works to the common parts of a building containing one or more flats, the applicant is a tenant of a flat in the building (alone or jointly with others) but does not have,

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or propose to acquire, such an owner’s interest as is referred to in paragraph (a) above;

and references in this Part to an “owner’s application” or a “tenant’s application” shall be construed accordingly.

- (2) In this Part “owner’s interest” means an interest which—
- (a) is held by the applicant alone or jointly with others; and
  - (b) is either an estate in fee simple absolute in possession or a term of years absolute of which not less than five years remain unexpired at the date of the application.
- (3) Where a local housing authority entertain an owner’s application made by a person who proposes to acquire the necessary interest, they shall not approve the application until they are satisfied that he has done so.
- (4) In accordance with directions given by the Secretary of State, a local housing authority may treat the condition in subsection (1)(a) above as fulfilled by a person who has, or proposes to acquire, an owner’s interest in only part of the land concerned; and directions under this subsection may make different provision with respect to different cases or descriptions of cases, including different provision for different areas.
- (5) A local housing authority may not entertain a tenant’s application unless—
- (a) the tenant is required by the terms of his tenancy to carry out the relevant works and his tenancy is not of a description excluded from this subsection by an order made by the Secretary of State; or
  - (b) his tenancy is of a description specified for the purposes of this subsection by an order made by the Secretary of State; or
  - (c) his application is for a disabled facilities grant.

## **105 Common parts grants: preliminary conditions.**

- (1) A local housing authority may not entertain an application for a common parts grant unless they are satisfied—
- (a) that, at the date of the application, at least the required proportion of the flats in the building concerned is occupied by occupying tenants; and
  - (b) that the application is either a landlord’s common parts application or a tenants’ common parts application.
- (2) In this Part—
- (a) an “occupying tenant”, in relation to a flat in a building, is a person—
    - (i) who has (alone or jointly with others) such an interest in the flat as is mentioned in any of paragraphs (b) to (e) of subsection (4) below; and
    - (ii) who occupies the flat as his only or main residence;
  - (b) a “landlord’s common parts application”, in relation to work to the common parts of a building, is an application for a common parts grant made by a person who—
    - (i) has (alone or jointly with others) such an interest in the building as is mentioned in paragraph (a) or paragraph (b) of subsection (4) below; and
    - (ii) has a duty or power to carry out the relevant works; and

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- (c) a “tenants’ common parts application”, in relation to works to the common parts of a building, is an application for a common parts grant made, subject to subsection (3) below, by at least three-quarters of the occupying tenants of the building who, under their tenancies, have a duty to carry out, or to make a contribution in respect of the carrying out of, some or all of the relevant works; and in any case where a tenancy is held by two or more persons jointly, those persons shall be regarded as a single occupying tenant in deciding, for the purposes of paragraph (c) above, whether the application is made by at least three-quarters of the occupying tenants referred to in that paragraph.
- (3) For the purposes of paragraph (c) of subsection (2) above, a tenant whose tenancy is of a description specified for the purpose of that paragraph by an order made by the Secretary of State shall be treated as an occupying tenant falling within that paragraph; and a person who falls within paragraph (b)(i) of that subsection and has a duty or power to carry out any of the relevant works may also join in a tenants’ common parts application; and, where such a person does join in an application, he is in this Part referred to as a “participating landlord”.
- (4) The interests referred to in subsection (2) above are as follows—
- (a) an estate in fee simple absolute in possession;
  - (b) a term of years absolute of which not less than five years remain unexpired at the date of the application;
  - (c) a tenancy to which section 1 of the <sup>M4</sup>Landlord and Tenant Act 1954 or Schedule 10 to this Act applies (long tenancies at low rents);
  - (d) an assured tenancy, a protected tenancy, a secure tenancy, a protected occupancy or a statutory tenancy; and
  - (e) a tenancy which satisfies such conditions as may be prescribed by order made by the Secretary of State.
- (5) The required proportion mentioned in subsection (1) above is three-quarters or such other proportion as may be—
- (a) prescribed for the purposes of this section by an order made by the Secretary of State; or
  - (b) approved by him, in relation to a particular case or description of case, on application made by the local housing authority concerned.

#### Marginal Citations

M4 1954 c. 56.

### 106 Certificate as to future occupation, etc.

- (1) Subject to sections 126 and 136 below, a local housing authority may not entertain an application for a renovation grant or a disabled facilities grant unless it is accompanied by a certificate falling within one of subsections (2) to (5) below in respect of the dwelling, building or flat to which the application relates.
- (2) A certificate under this subsection (an “owner-occupation certificate”) certifies—
- (a) that the applicant has, or proposes to acquire, an owner’s interest in the dwelling or building; and

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- (b) that he, or a member of his family, intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence for a period of not less than twelve months beginning on the certified date.
- (3) A certificate under this subsection (a "tenant's certificate") certifies—
  - (a) that the applicant is a tenant of the dwelling who falls within paragraph (a) or paragraph (b) of subsection (5) of section 104 above or that his application is a tenant's application for a disabled facilities grant; and
  - (b) that he or a member of his family intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence.
- (4) A certificate under this subsection (a "certificate of intended letting") certifies that the applicant has or proposes to acquire an owner's interest in the dwelling or building and intends to or already has let the dwelling or, as the case may be, one or more flats in the building as a residence—
  - (a) to someone other than a member of his family; and
  - (b) for a period of not less than five years beginning on the certified date; and
  - (c) except where the application relates to a disabled facilities grant, on a tenancy which is not a long tenancy.
- (5) A certificate under this subsection (a "special certificate") certifies that the applicant has, or proposes to acquire, an owner's interest in the dwelling or building and is an applicant of a class prescribed for the purposes of this section.
- (6) A local housing authority may not entertain a tenant's application unless—
  - (a) it is also accompanied by a certificate of intended letting made by the person who at the time of the application is the landlord under the tenancy; or
  - (b) they consider it unreasonable in the circumstances to seek such a certificate.
- (7) A local housing authority may not entertain an application for an HMO grant unless it is accompanied by a certificate that the applicant has or proposes to acquire an owner's interest in the house in question and intends—
  - (a) to license the use of part of it as a residence as mentioned in paragraphs (a) to (c) of subsection (4) above, or
  - (b) to let part of it as a residence as mentioned in those paragraphs,
 or has already so licensed or let part of it.
- (8) A local housing authority may not entertain an application for a common parts grant unless it is accompanied by a certificate signed by the applicant or, as the case may be, by each of the applicants which—
  - (a) specifies the interest of the applicant or, as the case may be, each of the applicants in the building or in each flat in the building; and
  - (b) certifies that the required proportion, within the meaning of section 105 above, of the flats in the building is occupied by occupying tenants.

#### *Restrictions on grant aid*

### **107 Certain dwellings and works excluded from grant aid.**

- (1) In each of the cases in subsection (2) below, the local housing authority may not approve an application for a grant unless—

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- (a) it is an application which they are required to approve by virtue of section 112 below and completion of the relevant works is necessary to comply with a notice under section 189 of the <sup>M5</sup>Housing Act 1985 (repair notice requiring works to render premises fit for human habitation); or
    - (b) it is an application which they are required to approve by virtue of section 113 below.
  - (2) The cases referred to in subsection (1) above are as follows—
    - (a) if, in the case of an application in respect of a dwelling or house which is not fit for human habitation, the local housing authority consider that the carrying out of the relevant works will not be sufficient to cause the dwelling or house to be fit for human habitation;
    - (b) if or to the extent that the relevant works have been completed before the date of service of the notice of refusal under section 116(1) below;
    - (c) if, within the period of three months beginning on the date of service of the notice of refusal, the authority intend to make a closing or demolition order relating to the dwelling, house or building under section 264 or section 265 of the Housing Act 1985;
    - (d) if, within the period of twelve months beginning on the date of service of the notice of refusal, the authority intend to declare a clearance area under section 289 of the Housing Act 1985 for an area which includes the dwelling, house or building;
    - (e) if the dwelling, house or building is or forms part of a building of a class designated under section 528 or section 559 of the Housing Act 1985 (defective dwellings), the applicant is eligible for assistance under Part XVI of that Act in respect of a defective dwelling which is or forms part of the dwelling, house or building concerned and the relevant works are, within the meaning of that Part, work required to re-instate that defective dwelling; and
    - (f) if, in the case of an application for a common parts grant, the local housing authority consider that the carrying out of the relevant works will not be sufficient to cause the building to meet the requirements mentioned in paragraphs (a) to (e) of section 604(2) of the Housing Act 1985.
- (3) Where a group repair scheme has been approved by the Secretary of State, a local housing authority may not approve an application for a grant in so far as it relates to works which will be carried out in pursuance of agreements entered into, or to be entered into, in pursuance of the scheme.
- (4) A local housing authority may not approve an application for a grant so far as it relates to works which are of a description excluded from grant aid by directions made by the Secretary of State.
- (5) Unless it is an application which they are required to approve by virtue of section 113 below, a local housing authority may not approve an application for an HMO grant so far as it relates to works—
  - (a) which relate to means of escape from fire or other fire precautions; and
  - (b) which are required to be carried out under or by virtue of any enactment (whenever passed).
- (6) If directions made by the Secretary of State under subsection (4) above specify a description of works for which grant aid is not to be available without his consent, a local housing authority may not approve an application for a grant, so far as it relates

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to works of that description, unless the Secretary of State has given his consent with respect to those works.

- (7) Directions under subsection (4) above may be made with respect to local housing authorities generally or to a particular local housing authority.
- (8) The Secretary of State may give his consent for the purposes of subsection (6) above—
- (a) with respect to local housing authorities generally or to a particular local housing authority; or
  - (b) with respect to applications generally or to a particular description of applications.

#### **Marginal Citations**

**M5** 1985 c. 68.

### **108 Restriction on grants for works already begun.**

- (1) Subject to subsections (2) and (3) below, a local housing authority may not approve an application for a grant if the relevant works have been commenced before the application is approved and shall serve a notice of refusal to that effect on the applicant.
- (2) Subsection (1) above does not apply to—
- (a) an application which the local housing authority are required to approve by virtue of section 112 below if completion of the relevant works is necessary to comply with a notice under section 189 of the Housing Act 1985 (repair notice requiring works to render premises fit for human habitation); or
  - (b) an application which the local housing authority are required to approve by virtue of section 113 below.
- (3) Where the relevant works have not been completed, the authority concerned may approve the application for a grant if they are satisfied that there were good reasons for beginning the works before the application was approved.
- (4) Where an authority decide to approve an application in accordance with subsection (3) above—
- (a) they may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to those that remain to be completed at the date of the application; and
  - (b) in determining for the purposes of sections 112, 114 and 115 below the physical condition of the dwelling, common parts or house or other building concerned, they shall consider the condition of the premises at the date of the application.

### **109 Owner-occupiers and tenants.**

- (1) Where an application for a grant is accompanied by an owner-occupation certificate, a tenant's certificate or a special certificate, then, if the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall be reduced from what it would otherwise have been in accordance with regulations made by the Secretary of State with the consent of the Treasury.



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- (2) For the purposes of this Part, the Secretary of State may by regulations made with the consent of the Treasury—
  - (a) make provision for the determination of the amount which is to be taken to be the financial resources of an applicant for a grant; and
  - (b) make provision for the determination of the applicable amount referred to in subsection (1) above.
- (3) Without prejudice to the generality of subsection (2) above, regulations under this section—
  - (a) may make provision for account to be taken of the income, assets, needs and outgoings not only of the applicant himself but also of his spouse, any person living with him or intending to live with him and any person on whom he is dependent or who is dependent on him;
  - (b) may make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

## **110 Landlords.**

- (1) Subject to section 126 below, this section applies—
  - (a) where an application for a grant is accompanied by a certificate of intended letting with respect to a dwelling and is not a tenant's application; and
  - (b) where an application for an HMO grant is accompanied by a certificate under section 106(7) above; and
  - (c) where, by virtue of section 136 below, sections 104 and 106 above do not apply to an application for a grant; and
  - (d) where an application for a grant is a landlord's common parts application.
- (2) Subject to the following provisions of this section and to section 116(5) below, the amount of the grant (if any) shall be such as may be determined by the local housing authority, having regard to—
  - (a) the cost of the relevant works;
  - (b) if the dwelling is currently let or subject to a statutory tenancy, the amount of the rent payable and of any increase which might reasonably be expected in that rent to take account of the relevant works, when completed;
  - (c) if paragraph (b) above does not apply, the amount of the rent which might reasonably be expected to be obtained on a letting of the dwelling on the open market under an assured tenancy (assuming that no premium is paid); and
  - (d) such other matters as the Secretary of State may direct.
- (3) In considering the matters in paragraphs (b) and (c) of subsection (2) above, the local housing authority may seek and act upon the advice of rent officers; and, for this purpose, in section 121 of the <sup>M6</sup>Housing Act 1988 (additional functions of rent officers) at the end of subsection (1) there shall be added the words "and applications to which section 110 of the Local Government and Housing Act 1989 applies".
- (4) Where the applicant is a charity or the application is in respect of glebeland, the local housing authority shall also have regard—
  - (a) to any obligation or practice on the part of the applicant to let dwellings at a rent less than that which could be obtained on the open market;
  - (b) to any financial resources available to the applicant in addition to the rent from the dwelling; and

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- (c) generally to the circumstances of the applicant concerned.
- (5) In the case of an application for an HMO grant, in subsections (2) and (4) above, any reference to rent shall be construed as a reference to the aggregate of the consideration under licences or lettings of the house in question and any reference to letting a dwelling shall be construed accordingly.
- (6) Where the application is for a grant in respect of the residence house of an ecclesiastical benefice, paragraphs (b) and (c) of subsection (2) above shall not apply and the local housing authority shall also have regard—
  - (a) to any financial resources available to the applicant; and
  - (b) generally to the circumstances of the applicant.
- (7) In a case where the application is a landlord's common parts application, each of the dwellings in the building concerned shall be taken into account under paragraph (b) or paragraph (c) of subsection (2) above so as to determine an aggregate rent for the purposes of that subsection.

#### **Marginal Citations**

**M6** 1988 c.50.

### **111 Tenants' common parts applications.**

- (1) This section applies where an application for a grant is a tenants' common parts application.
- (2) The local housing authority shall decide how much of the cost of the relevant works is attributable to the applicants (in this section referred to as "the attributable cost"); and, for the purposes of this section, the attributable cost is an amount equal to the proportion, referred to in subsection (3) below, of the cost of the relevant works.
- (3) The proportion mentioned in subsection (2) above is as follows—
  - (a) where it can be ascertained, the proportion that the aggregate of each of the applicant's respective liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of all such liabilities on the part of all persons (including the applicants) so liable; or
  - (b) where the proportion mentioned in paragraph (a) above cannot be ascertained, the proportion that the number of applicants bears to the number of persons (including the applicants) liable to carry out or contribute to the carrying out of works to the building;

and in any case where the interest by virtue of which the liability referred to in paragraph (b) above arises is held jointly by two or more persons, those persons shall be regarded as a single person in deciding for the purposes of that paragraph the number of persons so liable.
- (4) The local housing authority shall then apportion the attributable cost to each of the applicants—
  - (a) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (a) of subsection (3) above, according to the proportion that his liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of the applicants' liabilities mentioned in that paragraph; or

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- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (b) of that subsection, equally; and the amount of grant payable shall be the aggregate of the grants that would be payable to each of the applicants under section 109 above or, in the case of a participating landlord, section 110 above if each of the applicants was an individual applicant under section 109 above or, as the case may be, section 110 above in respect of his apportionment of the attributable cost under paragraph (a) or, as the case may be, paragraph (b) above.

*Approvals, notification and payment*

**112 Duty to approve applications to render certain dwellings fit for human habitation.**

- (1) Subject to the preceding provisions of this Part, on receipt of an application for a renovation grant (other than an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building), the local housing authority shall determine, with respect to the dwelling, whether the dwelling is fit for human habitation.
- (2) In any case where the local housing authority—
- (a) determine under subsection (1) above that a dwelling is not fit for human habitation, and
  - (b) consider that completion of the relevant works will cause the dwelling to be fit for human habitation, and
  - (c) are satisfied that completion of the relevant works is the most satisfactory course of action,
- then, subject to subsections (4) and (5) below, they shall approve the application so far as it relates to that dwelling.
- (3) If, in the case of any application, the local housing authority consider that the relevant works include works for which assistance is available under Part XVI of the <sup>M7</sup>Housing Act 1985 (assistance for owners of defective housing), they shall treat the application as if the relevant works did not include those works.
- (4) If, in the case of any application, other than one to which section 113 or section 115(6) below applies, the local housing authority consider that the relevant works include works in addition to those which will cause the dwelling to be fit for human habitation ("the additional works"), they shall treat the application—
- (a) as an application under this section in so far as it relates to works other than the additional works; and
  - (b) as an application under section 115 below in so far as it relates to the additional works;
- but, for the purposes of section 116 below and the subsequent provisions of this Part, the two applications shall be treated as one application.
- (5) A local housing authority shall not be under a duty under this section to approve an application—
- (a) which is accompanied by a certificate of intended letting and is not a tenant's application; or

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- (b) if they expect, within the period of twelve months beginning with the date of receipt of the application, to prepare a group repair scheme in respect of a building which includes or comprises the dwelling.
- (6) Section 604 of the <sup>M8</sup>Housing Act 1985 (fitness for human habitation) applies for the purposes of this Part, as it applies for the purposes of that Act.
- (7) In deciding whether they are satisfied as mentioned in subsection (2)(c) above, the local housing authority shall have regard to any guidance given under section 604A of the Housing Act 1985 and, for that purpose, the authority shall treat any guidance given in respect of the serving of a repair notice under section 189(1) of that Act as guidance given in respect of the completion of the relevant works.

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

- C1** S. 112 excluded (11.9.1996 for certain purposes otherwise 17.12.1996) by 1996 c. 53, s. 102(3)(4)(5); S.I. 1996/2352, art. 2(2); S.I. 1996/2842, art. 3

**Marginal Citations**

- M7** 1985 c. 68.  
**M8** 1985 c. 68.

**113 Duty to approve applications arising out of certain statutory notices.**

- (1) Subject to section 112(3) above and subsection (3) below, a local housing authority shall approve an application falling within section 110(1) above (in this section referred to as a “landlord’s application”) if completion of the relevant works is necessary to comply with a notice or notices under one or more of the following provisions—
  - (a) section 189 of the Housing Act 1985 (repair notice requiring works to render premises fit for human habitation);
  - (b) section 190 of that Act (repair notice in respect of premises in state of disrepair but not unfit); and
  - (c) section 352 of that Act (notice requiring works to render premises fit for number of occupants).
- (2) Subject to section 112(3) above and subsection (3) below, a local housing authority shall approve an application for a grant which is accompanied by an owner-occupation certificate (in this section referred to as an “owner-occupier’s application”) if completion of the relevant works is necessary to comply with a notice under section 190 of the Housing Act 1985.
- (3) If, in the case of a landlord’s application or an owner-occupier’s application, the local housing authority consider that the relevant works include works (“the additional works”) in addition to those necessary to comply with a notice under section 189, section 190 or section 352 of the Housing Act 1985, they shall treat the application—
  - (a) as an application to which this section applies in so far as it relates to works other than the additional works; and
  - (b) as an application to which section 115 below applies in so far as it relates to the additional works.

*Status: Point in time view as at 01/04/1995.*

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

- C2** S. 113 excluded (11.9.1996 for certain purposes otherwise 17.12.1996) by 1996 c. 53, s. 102(3)(4)(5); S.I. 1996/2352, art. 2(2); S.I. 1996/2842, art. 3

**114 Approval of applications to provide certain facilities for the disabled.**

- (1) A local housing authority shall not approve an application for a disabled facilities grant unless they are satisfied—
  - (a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant; and
  - (b) that it is reasonable and practicable to carry out the relevant works, having regard to the age and condition of the dwelling or building;and, in considering the matters specified in paragraph (a) above, the local housing authority shall consult the welfare authority.
- (2) A local housing authority shall not approve an application for a disabled facilities grant in respect of works to the common parts of a building containing one or more flats unless they are satisfied that the applicant has a power or is under a duty to carry out the relevant works.
- (3) Subject to the preceding provisions of this Part, a local housing authority shall approve an application for a disabled facilities grant if the relevant works are for any one or more of the following purposes—
  - (a) facilitating access by the disabled occupant to and from the dwelling or the building in which the dwelling or, as the case may be, flat is situated;
  - (b) facilitating access by the disabled occupant to a room used or usable as the principal family room;
  - (c) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
  - (d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, bath, shower or washhand basin or facilitating the use by the disabled occupant of such a facility;
  - (e) facilitating the preparation and cooking of food by the disabled occupant;
  - (f) improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
  - (g) facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control; and
  - (h) facilitating access and movement by the disabled occupant around the dwelling in order to enable him to care for a person who is normally resident in the dwelling and is in need of such care.
- (4) Subject to the preceding provisions of this Part, a local housing authority may approve an application for a disabled facilities grant where the relevant works do not fall within subsection (3) above but are for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant.

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- (5) In this section “the disabled occupant” means the disabled person for whose benefit it is proposed to carry out any of the relevant works.
- (6) In this Part “disabled person” means—
- (a) a person who is registered in pursuance of arrangements made under section 29(1) of the <sup>M9</sup>National Assistance Act 1948 (handicapped persons’ welfare); <sup>F2</sup> . . .
  - (b) any other person for whose welfare arrangements have been made under that provision or, in the opinion of the welfare authority, might be made under it. <sup>F2</sup>or
  - (c) a person to whom section 17(11) of the Children Act 1989 (disabled children) applies.]
- (7) For the purposes of this section, “welfare authority” means the council which is the local authority for the purposes of the <sup>M10</sup>Local Authority Social Services Act 1970 for the area in which the dwelling is situated.

#### Textual Amendments

**F2** Word in s. 114(6)(a) omitted by and s. 114(6)(c) inserted (14.10.1991) by [S.I. 1991/1881, art.4](#)

#### Marginal Citations

**M9** 1948 c. 29.

**M10** 1970 c. 42.

## 115 Discretionary approval of certain applications.

- (1) Subject to the preceding provisions of this Part, a local housing authority may approve an application for a grant, other than a common parts grant, in any case where—
- (a) the relevant works go beyond or are other than those which will cause the dwelling to be fit for human habitation, but
  - (b) the authority are satisfied that the relevant works are necessary for one or more of the purposes set out in subsection (3) below.
- (2) Subject to the preceding provisions of this Part, a local housing authority may approve an application for a common parts grant if the authority are satisfied that the relevant works—
- (a) are necessary for one or more of the purposes set out in paragraphs (a) and (c) to (g) of subsection (3) below; or
  - (b) will cause the building to meet the requirements mentioned in paragraphs (a) to (e) of section 604(2) of the <sup>M11</sup>Housing Act 1985.
- (3) The purposes referred to in subsection (1) above are—
- (a) to put the dwelling or building in reasonable repair;
  - (b) to provide the dwelling by the conversion of a house or other building;
  - (c) to provide adequate thermal insulation;
  - (d) to provide adequate facilities for space heating;
  - (e) to provide satisfactory internal arrangements;

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- (f) to ensure that the dwelling or building complies with such requirements with respect to construction or physical condition as may for the time being be specified by the Secretary of State for the purposes of this section; and
  - (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the dwelling or building as may for the time being be so specified.
- (4) In the case of an application for an HMO grant, any reference in subsections (1) and (3) above to the dwelling shall be construed as a reference to the house.
- (5) In considering whether to approve an application for a grant in exercise of their discretion under subsection (1) or subsection (2) above, the local housing authority shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the relevant works).
- (6) Subject to the preceding provisions of this Part, a local housing authority may approve an application falling within section 110(1) above (in this section referred to as a “landlord’s application”) if—
- (a) the relevant works are for the purpose of rendering the dwelling or house to which the application relates fit for human habitation, or
  - (b) in the case of an application for an HMO grant, the relevant works are for the purpose of enabling the house in question to meet one or more of the requirements in subsection (1A) of section 352 of the <sup>M12</sup>Housing Act 1985, and (in either case) the authority are satisfied that the relevant works are necessary for the purpose concerned.
- (7) If in the opinion of the local housing authority the relevant works are more or less extensive than is necessary to achieve the result referred to in paragraph (b) of subsection (2) above or any of the purposes set out in subsection (3) above or, as the case may be, the purpose falling within subsection (6) above, the authority may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to the authority to be necessary for that purpose.
- (8) In determining what is “reasonable repair”, in relation to a dwelling or building for the purposes of subsection (3)(a) above, a local housing authority—
- (a) shall have regard to the age and character of the dwelling or building and the locality in which it is situated; and
  - (b) shall disregard the state of internal decorative repair.
- (9) In the exercise of the powers conferred by paragraphs (f) and (g) of subsection (3) above, the Secretary of State—
- (a) may specify requirements generally or for particular cases; and
  - (b) may specify different requirements for different areas.

#### Marginal Citations

**M11** 1985 c. 68.

**M12** 1985 c.68.

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## **116 Approval and refusal of applications.**

- (1) A local housing authority shall, by notice in writing, notify an applicant for a grant as soon as reasonably practicable, and, in any event, not later than six months after the date of the application concerned, whether the application is approved or refused.
- (2) Where an authority decide to approve an application for a grant, they shall determine—
  - (a) which of the relevant works, taking into account any variation of the application under section 108(4)(a) or section 115(7) above, are eligible for grant (in this Part referred to as “the eligible works”);
  - (b) the amount of the expenses which in their opinion are properly to be incurred in the execution of the eligible works;
  - (c) the amount of the costs which in their opinion have been or are to be properly incurred with respect to preliminary or ancillary services and charges; and
  - (d) the amount of grant they have decided to pay in respect of the eligible works, taking into account paragraphs (b) and (c) above, subsection (5) below and such of sections 109 to 115 above as may be applicable;
 and shall specify in the notice under subsection (1) above the eligible works, the total of the amounts referred to in paragraphs (b) and (c) above (in this Part referred to as “the estimated expense”) and the amount of the grant.
- (3) Where an application for a grant is approved, then, except—
  - (a) with the consent of the Secretary of State, or
  - (b) as provided by section 118(1) below,
 the local housing authority may not impose any condition in relation to the approval or making of the grant, whether purporting to operate by way of a condition of the grant, a personal covenant or otherwise; and the consent of the Secretary of State under paragraph (a) above may be given either generally or in relation to any one or more specified authorities.
- (4) If, after an application for a grant has been approved, the authority are satisfied that, owing to circumstances beyond the control of the applicant,—
  - (a) the eligible works cannot be, or could not have been, carried out on the basis of the amount of expenses referred to in subsection (2)(b) above, or
  - (b) the eligible works cannot be, or could not have been, carried out without carrying out additional works which could not have been reasonably foreseen at the time the application was made,
 the authority may re-determine the estimated expense and, subject to subsection (5) below, the amount of the grant.
- (5) The Secretary of State may, if he thinks fit, by order prescribe a maximum amount, or a formula for calculating a maximum amount, of grant which a local housing authority may pay in respect of an application for a grant; and an authority may not pay any grant in excess of that amount.

## **117 Payment of grants.**

- (1) Where the local housing authority have approved an application for a grant, they shall pay the grant, subject to subsection (3) below and to sections 133 and 134 below.
- (2) The grant may be paid—
  - (a) in whole after the completion of the eligible works, or



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- (b) in part by instalments as the works progress and the balance after completion of the works.
- (3) The payment of a grant, or part of a grant, is conditional upon—
  - (a) the eligible works or the corresponding part of the works being executed to the satisfaction of the authority; and
  - (b) the authority being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services and charges in respect of which the grant or part of the grant is to be paid.
- (4) For the purposes of subsection (3) above an invoice, demand or receipt is acceptable if it satisfies the authority and is not given by the applicant or a member of his family.
- (5) Where a grant is paid by instalments, the aggregate of the instalments paid before the completion of the eligible works shall not at any time exceed nine-tenths of the amount of the grant.

#### *Conditions of grants and repayments*

### **118 Conditions as to completion of works.**

- (1) In approving an application for a grant, a local housing authority may require as a condition of the grant that the eligible works are carried out in accordance with such specification as they determine.
- (2) Subject to subsection (3) below, it is a condition of the grant that the eligible works are carried out within twelve months from the date of approval of the application concerned.
- (3) The authority may, if they think fit, extend the period of twelve months referred to in subsection (2) above and may, in particular, do so where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen at the time the application was made.

### **119 Condition as to availability for letting.**

- (1) This section applies where an application for a renovation grant or a disabled facilities grant, other than an application for a disabled facilities grant in respect of works to the common parts of a building containing flats, has been approved by a local housing authority and the application for the grant was accompanied by a certificate of intended letting.
- (2) It is a condition of the grant that throughout the initial period—
  - (a) the dwelling will be let or available for letting as a residence, and not for a holiday, on a tenancy which is not a long tenancy by the owner for the time being of the dwelling to a person who is not connected with him, or
  - (b) the dwelling will be occupied or available for occupation by a member of the agricultural population in pursuance of a contract of service and otherwise than as a tenant,

disregarding any part of that period in which neither of the above paragraphs applies but the dwelling is occupied by a person who is a protected occupier under the <sup>M13</sup>Rent

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- (Agriculture) Act 1976 or is occupied under an assured agricultural occupancy, within the meaning of Part I of the <sup>M14</sup>Housing Act 1988.
- (3) For the purposes of subsection (2) above, a person is connected with the owner for the time being of a dwelling if,—
- (a) in a case where personal representatives or trustees are the owner, he is a person who under the will or intestacy or, as the case may be, under the terms of the trust concerned is beneficially entitled to an interest in the dwelling or to the proceeds of sale of the dwelling; and
  - (b) in any other case, he is a member of the family of the owner.
- (4) It is also a condition of the grant—
- (a) that if, at any time within the initial period, the local housing authority by whom the grant was paid serve notice on the owner of the dwelling requiring him to do so, he will, within the period of twenty-one days beginning on the date on which the notice was served, furnish to the authority a statement showing how the condition in subsection (2) above is being fulfilled; and
  - (b) that, if required to do so by the owner of the dwelling, any tenant of the dwelling will furnish the owner with such information as he may reasonably require to enable him to comply with a notice served under paragraph (a) above.
- (5) A condition under subsection (2) or subsection (4) above is a local land charge and shall, subject to subsection (9) and section 125 below, remain in force with respect to the dwelling for a period of five years from the certified date.
- (6) So long as a condition under subsection (2) or subsection (4) above remains in force with respect to a dwelling—
- (a) it is binding on any person, other than a local housing authority or registered housing association, who is for the time being the owner of the dwelling; and
  - (b) it is enforceable against all other persons having an interest in the dwelling as if it were a condition of the terms of every tenancy of, or of property including, the dwelling.
- (7) In the event of a breach of a condition under subsection (2) or subsection (4) above, the local housing authority may demand that the owner for the time being of the dwelling pay a sum equal to the amount of the grant less so much (if any) of it as has already been repaid under section 120 below, together with compound interest on that sum as from the certified date, calculated at such reasonable rate as the local housing authority may determine and with yearly rests.
- (8) The local housing authority may determine not to make such a demand or may demand a lesser amount.
- (9) On satisfaction of the liability arising from a demand under this section, the conditions under subsections (2) and (4) above and subsection (2) of section 120 below shall cease to be in force with respect to the dwelling in question.

#### **Marginal Citations**

**M13** 1976 c. 80.

**M14** 1988 c. 50.

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**120 Condition requiring repayment of grant in case of certain disposals where certificate of intended letting given.**

- (1) This section applies where an application for a renovation grant (other than a tenant's application) has been approved by a local housing authority and the application for the grant was accompanied by a certificate of intended letting.
- (2) It is a condition of the grant that—
  - (a) where an owner makes a relevant disposal (other than an exempt disposal) of the dwelling with vacant possession within the initial period, he shall pay to the local housing authority on demand the amount of the grant; and
  - (b) where an owner makes such a disposal otherwise than with vacant possession within the initial period, he shall pay to the authority on demand the amount of the grant, reduced by one-fifth for each complete year which has elapsed after the certified date and before the disposal.
- (3) A condition under subsection (2) above is a local land charge and shall, subject to subsection (5) and section 125 below, remain in force with respect to the dwelling for a period of five years from the certified date.
- (4) So long as a condition under subsection (2) above remains in force with respect to a dwelling it is binding on any person who is for the time being an owner of the dwelling.
- (5) On satisfaction of the liability arising from a demand under this section, any condition under subsection (2) above shall cease to be in force with respect to the dwelling in question.
- (6) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by section 124 below.

**121 Condition requiring repayment of grant in case of certain disposals where owner-occupation certificate given.**

- (1) This section applies where an application for a renovation grant has been approved by a local housing authority and the application for the grant was accompanied by an owner-occupation certificate.
- (2) It is a condition of the grant that, where an owner makes a relevant disposal (other than an exempt disposal) of the dwelling within the period of three years beginning on the certified date, he shall pay to the authority on demand the amount of the grant, reduced by one-third for each complete year which has elapsed after the certified date and before the disposal.
- (3) A condition under subsection (2) above is a local land charge and shall, subject to subsections (5) to (7) and section 125 below, remain in force with respect to the dwelling for a period of three years from the certified date.
- (4) So long as a condition under subsection (2) above remains in force with respect to a dwelling it is binding on any person who is for the time being an owner of the dwelling.
- (5) In any case where—
  - (a) there is a relevant disposal of the dwelling concerned which is an exempt disposal; or
  - (b) there is a relevant disposal of the dwelling concerned (not being an exempt disposal) for no consideration or for consideration of an amount less than that

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- either prescribed, or calculated in accordance with a formula prescribed, by regulations made by the Secretary of State;
- any condition under subsection (2) above shall cease to be in force with respect to the dwelling.
- (6) On satisfaction of the liability arising from a demand under this section, any condition under subsection (2) above shall cease to be in force with respect to the dwelling in question.
- (7) In any case where—
- (a) within the period referred to in subsection (2) above an owner makes a relevant disposal of the dwelling concerned (not being an exempt disposal), and
  - (b) the authority having the right to demand payment from the owner as mentioned in that subsection are satisfied that he is elderly or infirm and is making the disposal with the intention of going to live in sheltered housing or a residential care home as his only or main residence,
- the authority may determine not to make any demand under subsection (2) above and, on the making of such a determination, any condition under that subsection shall cease to be in force with respect to the dwelling.
- (8) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by section 124 below.

## **122 Conditions relating to HMO grant.**

- (1) This section applies where an application for an HMO grant has been approved by a local housing authority; and in the following provisions of this section “the house” means the house to which the eligible works relate.
- (2) It is a condition of the grant that, throughout the initial period, the house will be residentially occupied or available for residential occupation, under tenancies or licences, by persons who are not connected with the owner for the time being of the house.
- (3) The references in subsection (2) above to residential occupation do not include occupation for a holiday; and subsection (3) of section 119 above applies for the purposes of subsection (2) above, substituting a reference to a house for any reference to a dwelling.
- (4) It is also a condition of the grant—
  - (a) that if, at any time within the initial period, the local housing authority by whom the grant was paid serve notice on the owner of the house requiring him to do so, he will, within the period of twenty-one days beginning on the date on which the notice was served, furnish to the authority a statement showing how the condition in subsection (2) above is being fulfilled; and
  - (b) that, if required to do so by the owner of the house, any tenant or licensee in residential occupation of the house will furnish the owner with such information as he may reasonably require to enable him to comply with a notice served under paragraph (a) above.
- (5) In any case where—
  - (a) there is, with respect to the house, a breach of a condition under subsection (2) or subsection (4) above, or

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- (b) at any time within the initial period the local housing authority have given a direction under section 354 of the Housing Act 1985 (power to limit number of occupants of house) with respect to the house and that direction has not been revoked or varied under section 357 of that Act,
- the authority may demand that the owner for the time being of the house pay a sum equal to the amount of the grant, together with compound interest on that sum as from the certified date, calculated at such reasonable rate as the authority may determine and with yearly rests: but the authority may determine not to make such a demand or may demand a lesser amount.
- (6) It is also a condition of the grant that, if an owner makes a relevant disposal of the house (other than an exempt disposal) within the initial period, he shall pay to the local housing authority on demand the amount of the grant.
- (7) A condition under any of subsections (2), (4) and (6) above (in the following provisions of this section referred to as “an HMO condition”) is a local land charge and, subject to subsection (9) and section 125 below, shall remain in force with respect to the house for a period of five years from the certified date.
- (8) So long as an HMO condition remains in force with respect to a house it is binding on any person, other than a local housing authority or registered housing association, who is for the time being an owner of the house.
- (9) On satisfaction of the liability arising from a demand under subsection (5) or subsection (6) above, any HMO condition shall cease to be in force with respect to the house.
- (10) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by section 124 below.

**123 Condition requiring repayment of grant on certain disposals in case of landlord’s common parts application.**

- (1) This section applies where a landlord’s common parts application has been approved by a local housing authority.
- (2) It is a condition of the grant that where the applicant makes a relevant disposal (other than an exempt disposal) of the building within the initial period, he shall pay to the local housing authority on demand the amount of the grant.
- (3) A condition under subsection (2) above is a local land charge and shall, subject to subsection (5) and section 125 below, remain in force with respect to the building for a period of five years from the certified date.
- (4) So long as a condition under subsection (2) above remains in force with respect to a building it is binding on any person who is for the time being a successor in title to that interest in the building by virtue of which, under section 105(2)(b) above, the applicant made his application.
- (5) On satisfaction of the liability arising from a demand under this section, any condition under subsection (2) above shall cease to be in force with respect to the building in question.
- (6) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by section 124 below.

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## **124 Meaning of relevant disposal and exempt disposal for the purposes of sections 120 to 123.**

- (1) A disposal, whether of the whole or part of the dwelling, is a relevant disposal for the purposes of sections 120 to 123 above if it is—
  - (a) a conveyance of the freehold or an assignment of the lease, or
  - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) above it shall be assumed—
  - (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
  - (b) that any option to terminate a lease or sub-lease is not exercised.
- (3) A disposal is an exempt disposal for the purposes of sections 120 to 123 above if it is—
  - (a) a disposal of the whole of the dwelling and a conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person as defined in subsection (4) below;
  - (b) a vesting of the whole of the dwelling in a person taking under a will or on an intestacy;
  - (c) a disposal of the whole of the dwelling in pursuance of an order made under section 24 of the <sup>M15</sup>Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings) or section 2 of the <sup>M16</sup>Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate);
  - (d) a compulsory disposal as defined in section 161 of the <sup>M17</sup>Housing Act 1985 (meaning of compulsory disposal);
  - (e) a disposal of property consisting of land included in the dwelling by virtue of section 184 of that Act (land let with or used for the purposes of the dwelling-house); or
  - (f) a disposal under which the interest of a person entitled to assistance by way of repurchase under Part XVI of that Act (assistance for owners of defective housing) is acquired in accordance with Schedule 20 to that Act.
- (4) A person is a qualifying person for the purposes of subsection (3)(a) above if—
  - (a) in the case of an individual, he is—
    - (i) the person, or one of the persons, by whom the disposal is made;
    - (ii) the spouse, or former spouse, of that person or one of those persons; or
    - (iii) a member of the family of that person or one of those persons; or
  - (b) in the case of a company, it is an associated company of the company by whom the disposal is made;

and, for the purposes of paragraph (b) above, section 416 of the <sup>M18</sup>Income and Corporation Taxes Act 1988 (meaning of associated company) shall apply in determining whether a company is an associated company of another.
- (5) For the purposes of sections 120 to 123 above, the grant of an option enabling a person to call for a relevant disposal which is not an exempt disposal shall be treated as such a disposal made to him.

*Status: Point in time view as at 01/04/1995.*

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#### Marginal Citations

- M15 1973 c. 18.
- M16 1975 c. 63.
- M17 1985 c.68.
- M18 1988c. 1.

### 125 Repayment of grant.

- (1) Any reference in this section to a “grant condition” is a reference to a condition for the time being in force under subsection (2) or subsection (4) of section 119 above, subsection (2) of section 120 above, subsection (2) of section 121 above, any of subsections (2), (4) and (6) of section 122 above or subsection (2) of section 123 above.
- (2) If at any time while a grant condition remains in force with respect to a dwelling, house or building.—
  - (a) the owner of the dwelling, house or building to which the condition relates pays the amount of the grant to the local housing authority by whom the grant was made, or
  - (b) a mortgagee of the interest of the owner in that dwelling, house or building being a mortgagee entitled to exercise a power of sale, makes such a payment, the grant condition and any other grant conditions shall cease to be in force with respect to that dwelling, house or building.
- (3) In the case of a grant condition imposed on a landlord’s common parts application any reference in subsection (2) above to the owner of the building is a reference to the applicant or any such successor in title as is referred to in section 123(4) above.
- (4) An amount paid by a mortgagee under subsection (2)(b) above shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.
- (5) The purposes authorised for the application of capital money by—
  - (a) section 73 of the <sup>M19</sup>Settled Land Act 1925,
  - (b) that section as applied by section 28 of the <sup>M20</sup>Law of Property Act 1925 in relation to trusts for sale, and
  - (c) section 26 of the <sup>M21</sup>Universities and College Estates Act 1925,include the making of payments under subsection (2) above.

#### Marginal Citations

- M19 1925 c. 18.
- M20 1925 c. 20.
- M21 1925 c. 24.

### 126 Renovation grants relating to two or more dwellings.

- (1) Subject to subsection (2) below, no application for a renovation grant may be made in respect of more than one dwelling.

*Status: Point in time view as at 01/04/1995.*

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- (2) A single application may be made for a renovation grant towards the cost of works required for the provision of two or more dwellings by the conversion of a house or other building.
- (3) In the case of such a single application as is referred to in subsection (2) above—
  - (a) for the purposes of section 106 above, a separate certificate may be given in respect of each dwelling or in respect of any one or more of them;
  - (b) if the application is accompanied by more than one certificate and at least one of them is an owner-occupation certificate or a special certificate the application shall be treated as falling within section 109 above and not within section 110 above;
  - (c) each dwelling shall be treated separately for the purposes of sections 119 to 125 above; and
  - (d) the grant shall, for those purposes, be treated as apportioned equally between each of the dwellings, and any reference in those sections to the amount of the grant shall be construed accordingly.

#### *Group repair schemes*

### **127 Group repair schemes and persons eligible to participate.**

- (1) In accordance with a scheme under this section prepared by a local housing authority and approved by the Secretary of State, the authority may, with the consent of the persons participating in the scheme, enter into agreements to secure the carrying out of such external works to qualifying buildings to which the scheme relates as will ensure that, on completion of the works, the exterior of those buildings will be in reasonable repair; and in this Part such a scheme is referred to as a “group repair scheme”.
- (2) The approval of the Secretary of State under subsection (1) above may be given either to a specific scheme or generally to schemes which fulfil such criteria as he may from time to time specify; and any such approval may be made conditional upon compliance with requirements specified by him.
- (3) Every person who, at the date of the approval of the scheme, has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates and who fulfils the conditions in subsection (5) below is eligible to participate in the scheme as an assisted participant unless that person is—
  - (a) the council of a county, district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) a development corporation or the Commission for the New Towns;
  - (c) the Development Board for Rural Wales;
  - (d) a housing action trust; or
  - (e) a registered housing association, within the meaning of the <sup>M22</sup>Housing Associations Act 1985.
- (4) Any of the bodies specified in paragraphs (a) to (e) of subsection (3) above which has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates is eligible to participate in the scheme as an unassisted participant.
- (5) The conditions referred to in subsection (3) above are—



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- (a) that, as respects the dwelling or other premises in which he has an owner's interest, the person concerned either is able to give possession of any part of the building to which external works are proposed to be carried out or has the consent of the occupier of that part to the carrying out of those works; and
  - (b) that, if the owner's interest which he has is an interest in a dwelling and this paragraph is not excluded by subsection (6) below, he gives a certificate of future occupation which falls within subsection (2) or subsection (4) of section 106 above; and
  - (c) that, if the owner's interest which the person concerned has is an interest in a house in multiple occupation and that person is not a charity or the trustee of a charity, he gives a certificate under section 106(7) above.
- (6) Paragraph (b) of subsection (5) above does not apply if—
- (a) the person concerned is a charity or the trustee of a charity; or
  - (b) the dwelling is the residence house of an ecclesiastical benefice.
- (7) If the Secretary of State so directs in the case of any scheme or any description of scheme, such of the provisions of this section and sections 128 to 130 below as are specified in the direction shall not apply in relation to that scheme or, as the case may be, in relation to a scheme of that description.
- (8) Section 99 above applies to the power to give directions under subsection (7) above as it applies to a power to give directions under Part VII of this Act.

#### Marginal Citations

M22 1985 c.69.

## 128 Qualifying buildings and external works, etc.

- (1) A building is not a qualifying building in relation to a group repairscheme unless, at the time the scheme is prepared, the whole or some part ofthe exterior of the building is not in reasonable repair and that lack ofreasonable repair affects at least 75 per cent. of the houses contained in thebuilding.
- (2) Every group repair scheme shall relate to at least one qualifying building(in this section referred to as “the primary building”) which was constructed so as tocomprise not less than four separate houses and may also relate to one or moreother qualifying buildings if the following conditions are fulfilled withrespect to each of them—
  - (a) the building was constructed so as to comprise at least one house and iscontiguous or adjacent to the primary building; and
  - (b) the exterior of the building is not in reasonable repair and is in needof works similar to those required to the exterior of the primary building;and
  - (c) carrying out the works to the building and the primary building at thesame time is the most effective way of securing the repair of each of them.
- (3) The question whether a building was constructed so as to comprise not lessthan four houses or at least one house shall be determined according to theconfiguration of the building at the date of its construction.
- (4) For the purposes of this section—

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- (a) a terrace of houses shall be regarded as one building except that, if it appears appropriate to a local housing authority to do so, having regard in particular to the requirements of subsection (1) above, they may treat part only of the terrace as a building; and
  - (b) if, apart from this paragraph, one building would be regarded as containing two or more purpose-built flats and one or more houses, the part of the building containing the purpose-built flats and the part or parts of the building containing the houses shall be regarded as separate buildings.
- (5) In relation to a group repair scheme, “external works” are works to any part of the exterior of a building to which the scheme relates and, so far only as may be necessary to give satisfactory effect to such works, additional works to other parts of the building.
- (6) For the purposes of this Part, the exterior of a building means—
- (a) any part thereof which is exposed to the elements of wind and rain or otherwise faces into the open air (including, in particular, roofs, chimneys, walls, doors, windows, rainwater goods and external pipework); and
  - (b) the curtilage of the building, including any wall within the curtilage which is constructed as a retaining wall or otherwise to protect the structure of the building;
- and, in relation to works to any part of the curtilage referred to in paragraph (b) above, the reference in subsection (5) above to additional works to other parts of the building includes a reference to additional works on land outside the curtilage.
- (7) In this section—
- (a) “house” means a dwelling which is not a flat (and, accordingly, does not include a house constructed as a house in multiple occupation); and
  - (b) a “purpose-built flat” means a part of a building which, at the date of the construction of the building, was constructed as a flat.
- (8) For the purposes of this Part, unless the exterior of a building is substantially free from rising or penetrating damp, it shall not be regarded as in reasonable repair.

## **129 Contributions by participants and limitations on works.**

- (1) Those persons who are eligible to participate in a group repair scheme and who participate in the scheme by signifying consent (in this section referred to as “scheme consent”), in accordance with the terms of the scheme, to the proposals to carry out the external works specified in the scheme shall be liable, subject to subsection (2) below, to contribute to the cost, as notified to them under the scheme, of such of those works as relate to the house or other premises in which they have an interest at a rate determined in accordance with this section.
- (2) For the purposes of subsection (1) above, “house” includes premises which were originally constructed as a house but which, by the time the group repair scheme is prepared, have been divided so as to form one or more flats, with or without other premises; and, in the case of a house which has been so divided, the cost of such of the external works as relate to the house shall be apportioned between the several parts into which the house has been divided in such way as may be agreed between the persons with owner’s interests in those parts or, in default of agreement, equally.
- (3) In the case of a person who participates in a scheme as an unassisted participant, the rate of contribution shall be 100 per cent.

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- (4) In the case of a person who participates in a scheme as an assisted participant but whose owner's interest in the part of the qualifying building in question is an interest in premises other than a house or flat, the rate of contribution, subject to subsection (5) below, shall be—
  - (a) 25 per cent. in a case where the qualifying building is in a renewal area; and
  - (b) 50 per cent. in any other case;and in this subsection "house" includes a house in multiple occupation.
- (5) The Secretary of State may by order amend paragraph (a) or paragraph (b) of subsection (4) above so as to specify a percentage different from that which applied before the coming into force of the order.
- (6) In the case of any other person who participates in a scheme as an assisted participant, the rate of contribution shall be such percentage as may be determined by the local housing authority, being a percentage between nil and that which would be appropriate if subsection (4) above applied; and, in making their determination under this subsection in the case of any person, the authority shall have regard—
  - (a) to the way in which section 109 or section 110 above would apply in his case if he were an applicant for a renovation grant or, as the case may require, an HMO grant; and
  - (b) to any guidance given by the Secretary of State for the purposes of this section; and section 99 above applies to the power to give guidance as mentioned in paragraph (b) above as it applies to any power to give guidance under Part VII of this Act.
- (7) Except as provided by subsection (8) below, no external works shall be carried out to a part of a building which consists of a house, flat or other premises in respect of which no person eligible to participate has signified scheme consent.
- (8) Subsection (7) above does not apply—
  - (a) to works carried out to a part of a building in respect of which there is no person (or no ascertainable person) eligible to participate in the scheme; or
  - (b) to works which—
    - (i) are carried out to a part of a building in respect of which the person eligible to participate consents to their being carried out but has not signified scheme consent (and, accordingly, is not liable to contribute); and
    - (ii) it is necessary to carry out in order satisfactorily to carry out any external works specified in the scheme to another part of the building in respect of which a person eligible to participate has signified scheme consent.

### **130 Payment of balance of costs in case of certain disposals.**

- (1) When the external works specified in a group repair scheme are completed, the local housing authority shall, for the purposes of this section, send to each assisted participant a certificate specifying the date on which the works were completed to their satisfaction; and in subsection (2) below that date is referred to as "the completion date".
- (2) It shall be a condition of participation in a group repair scheme as an assisted participant that if, before the expiry of the period of three years beginning with the completion

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date, the assisted participant makes a relevant disposal (other than an exempt disposal) of the dwelling or other premises in which he had an owner's interest at the date of the approval of the scheme, then, subject to subsection (6) below, he shall pay to the local housing authority on demand the outstanding balance determined in accordance with subsections (3) and (4) below or such lesser amount, being not less than one-third of that outstanding balance, as the authority may specify in the demand.

- (3) Subject to subsection (4) below, in the case of any assisted participant, the outstanding balance referred to in subsection (2) above is the difference between—
  - (a) the cost, as notified to him under the scheme, of such of the external works specified in the scheme as relate to the house or other premises in which his owner's interest subsisted; and
  - (b) the amount of the contribution in respect of that cost paid by him by virtue of section 129 above.
- (4) If, in the case of any assisted participant, the cost of the external works relating to the house in which he had an owner's interest falls to be apportioned as mentioned in subsection (2) of section 129 above, the reference in subsection (3) above to the cost of the works relating to the house shall be construed as a reference to that part of the cost which is apportioned to the part of the house in which his owner's interest subsisted.
- (5) Section 124 above applies for the purposes of this section as it applies for the purposes of sections 120 to 123 above, except that for any reference in that section to the dwelling there shall be substituted a reference to the house (or part of a house) or other premises in which the assisted participant had an owner's interest.
- (6) The duty of an assisted participant under subsection (2) above shall cease to apply if he makes such a disposal as is mentioned in that subsection either for no consideration or for consideration of an amount less than that either prescribed, or calculated in accordance with a formula prescribed, by regulations made by the Secretary of State.
- (7) In subsections (3) to (5) above "house" shall be construed in accordance with section 129(2) above.

#### *Minor works*

### **131 Assistance for provision of minor works to dwellings.**

- (1) Subject to the provisions of regulations under subsection (3) below, on an application made to them for the purpose, a local housing authority may give assistance as mentioned in subsection (2) below—
  - (a) for the provision or improvement of thermal insulation in a dwelling;
  - (b) for the carrying out of works of repair to a dwelling which, at the time of the application, is included in a clearance area, within the meaning of section 289 of the Housing (c) to an elderly owner or tenant of a dwelling for the carrying out of works of repair, improvement or adaptation;
  - (d) for the carrying out of works to adapt a dwelling to enable an elderly person who is not an owner or tenant of the dwelling but who is or proposes to be resident in the dwelling to be cared for; or
  - (e) for any other purpose specified by order made by the Secretary of State.
- (2) Assistance under this section may be in the form of a grant or the provision of materials but—

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- (a) the total amount or value of the assistance given on any one application shall not exceed £1,000 or such other sum as may be determined for the purposes of this paragraph in accordance with regulations under subsection (3) below;
  - (b) the total amount or value of assistance given under this section in any period of three years in respect of any one dwelling shall not exceed £3,000 or such other sum as may be determined for the purposes of this paragraph in accordance with regulations under subsection (3) below; and
  - (c) no assistance may be given under this section in respect of works if they are or are included in the eligible works in relation to an application for a grant which has been approved under the preceding provisions of this Part.
- (3) The Secretary of State may by regulations make provision for the determination of sums for the purposes of paragraphs (a) and (b) of subsection (2) above and, in addition, may for the purposes of this section specify—
- (a) the manner in which an application for assistance is to be made and the content of such an application;
  - (b) the descriptions of dwellings and works in respect of which assistance may be given;
  - (c) the descriptions of persons to whom assistance may be given;
  - (d) the procedure for dealing with applications under subsection (1) above and for ensuring that works are carried out to any standard specified in the regulations; and
  - (e) the way in which the amount of assistance to be given on any application is to be calculated, taking account, in such manner and to such extent as may be determined under the regulations, of the financial circumstances of the applicant.

#### *Supplementary provisions*

### **132 Contributions by the Secretary of State.**

- (1) The Secretary of State may pay contributions to local housing authorities towards such expenditure incurred by them under this Part as he may determine.
- (2) The rate or rates of the contributions, the calculation of the expenditure to which they relate and the manner of their payment shall be such as may be determined by the Secretary of State with the consent of the Treasury.
- (3) A determination under subsection (1) or subsection (2) above may be made—
  - (a) generally, or
  - (b) 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 may make different provision in relation to different cases or descriptions of case.
- (4) Subsections (3) to (6) of section 96 above shall apply in relation to this section, substituting a reference to subsection (1) or, as the case may be, subsection (2) above for any reference to the corresponding subsection of that section.
- (5) In the application of section 516 of the <sup>M23</sup>Housing Act 1985 (contributions by Secretary of State towards expense of grants under Part XV of that Act) in relation to a case where—

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- (a) an application under section 461 of that Act has been approved by the local housing authority after 14th June 1989, and
- (b) the date which is the certified date, as defined in section 499(3) of that Act, in relation to the works to which that application relates falls on or after the day appointed under section 195 below for the coming into force of section 101 above,

for subsection (2) there shall be substituted the following subsection—

- “(2) In the case of any grant, the contribution—
- (a) shall be equal to a percentage of the amount of the grant determined under subsections (3) and (4) below; and
  - (b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.”

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

**C3** S. 132 amended (28.11.1994) by S.I. 1994/2825, reg. 54

**Marginal Citations**

**M23** 1985 c. 68.

**133 Persons entitled to grants.**

- (1) In relation to a grant or an application for a grant, references in the preceding provisions of this Part, and in subsection (2) below, to the applicant shall be construed in relation to any time after his death as a reference to his personal representatives.
- (2) Where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to apply for a grant of that description—
  - (a) in the case of any grant, other than a common parts grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
  - (b) in the case of a common parts grant, other than one made on a tenants' common parts application, the local housing authority may refuse to pay the grant or any further instalment,
 and the authority may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment at such reasonable rate as the authority may determine.
- (3) For the purposes of subsection (2) above an applicant ceases to be a person entitled to apply for a grant, other than a common parts grant,—
  - (a) if he ceases to have the owner's interest by virtue of which the condition in section 104(1)(a) above was (or was treated as) fulfilled, or
  - (b) if he ceases to be a tenant of the dwelling, or
  - (c) if he, or a member of his family, ceases to have the intention specified in a certificate under subsection (2), subsection (3) or subsection (4) (as the case may be) of section 106 above, or
  - (d) if, in the case of an applicant for an HMO grant, he ceases to have the intention specified in a certificate under section 106(7) above.

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- (4) For the purposes of subsection (2) above an applicant whose application is a landlord's common parts application ceases to be a person entitled to apply for a common parts grant—
- (a) if he ceases to have a duty or power to carry out the relevant works; or
  - (b) if he ceases to have such an interest in the building as is referred to in paragraph (a) or paragraph (b) of section 105(4) above.

### **134 Cases in which grants may be re-calculated, withheld or repaid.**

- (1) Where an application for a grant has been approved by the local housing authority, subsection (2) below applies in any case where—
- (a) the eligible works are not completed to the satisfaction of the authority within the period specified under subsection (2) of section 118 above, or such extended period as they may allow under subsection (3) of that section; or
  - (b) the authority ascertain that the aggregate of the cost of completing the eligible works and the costs incurred with respect to preliminary or ancillary services and charges, is or is likely to be lower than the estimated expense; or
  - (c) the authority ascertain that without their knowledge the eligible works were started before the application was approved and the application was neither—
    - (i) one which they were required to approve by virtue of section 112 above in a case where completion of the relevant works was necessary to comply with a notice under section 189 of the <sup>M24</sup>Housing Act 1985 (repair notice requiring works to render premises fit for human habitation); nor
    - (ii) one which they were required to approve by virtue of section 113 above.
- (2) Where this subsection applies, the authority may—
- (a) refuse to pay the grant or any further instalment of grant which remains to be paid; or
  - (b) make a reduction in the grant which, in a case falling within subsection (1) (b) above, is to be a reduction proportionate to the reduction in the estimated expense;
- and may demand repayment by the applicant forthwith, in whole or part, of the grant or any instalment of the grant paid, together with interest at such reasonable rate as the authority may determine from the date of payment until repayment.

#### **Marginal Citations**

**M24** 1985 c. 68.

### **135 Power of local housing authority to carry out works which would attract grant.**

- (1) A local housing authority may by agreement with a person having the requisite interest execute at his expense—
- (a) any works towards the cost of which a grant under this Part is payable or might be paid on an application duly made and approved; and
  - (b) any further works which it is in their opinion necessary or desirable to execute together with the works mentioned in paragraph (a) above.

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- (2) Except in the case of a common parts grant, the “requisite interest” means an owner’s interest in every parcel of land on which the works are to be carried out or, in a case where (if an application was made) section 104(4) above might apply, in part only of the land concerned.
- (3) In the case of a common parts grant, the reference in subsection (1) above to a person having the requisite interest is a reference to the person who—
- (a) has a power or duty to carry out the relevant works; and
  - (b) has such an interest in the building or in a flat in the building as is referred to in subsection (4) of section 105 above.

### **136 Parsonages, charities etc.**

Sections 104 and 106 above do not apply to—

- (a) an application for a grant in respect of glebe land or the residence house of an ecclesiastical benefice; and
- (b) an application for a grant made by a charity or on behalf of a charity by the charity trustees of the charity.

### **137 Orders and regulations.**

- (1) Orders under this Part—
- (a) may make different provision with respect to different cases or descriptions of cases, including different provision for different areas; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Orders and regulations under this Part may contain such incidental, supplemental or transitional provisions as the Secretary of State considers appropriate.

### **138 Interpretation of Part VIII.**

- (1) In this Part, except where the context otherwise requires,—
- “agricultural population” means—
- (a) persons whose employment or latest employment is or was employment in agriculture or in an industry mainly dependent on agriculture, and
  - (b) the dependents of those persons;
- and for this purpose “agriculture” includes dairy-farming and poultry-farming and the use of land as grazing, meadow or pasture land, or orchard or osier land or woodland, or for market gardens or nursery grounds;
- “certified date” means the date certified by the local housing authority as the date on which the execution of the eligible works is completed to their satisfaction;
- “charity” does not include a registered housing association but, subject to that, has the same meaning as in the [<sup>F3</sup>the Charities Act 1993];
- “common parts”, in relation to a building, includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more flats in the building;



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“disabled person” has the meaning assigned by section 114(6) above;

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“the eligible works” shall be construed in accordance with section 116(2) (a) above;

“the estimated expense” shall be construed in accordance with section 116(2) above;

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;

“group repair scheme” has the meaning assigned by section 127(1) above;

“house in multiple occupation” has the same meaning as in Part VII above;

“improvement” includes alteration and enlargement;

“initial period” means the period of five years beginning with the certified date;

“landlord’s common parts application” has the meaning assigned by section 105(2)(b) above;

“local housing authority” has the same meaning as in the <sup>M25</sup>Housing Act 1985;

“long tenancy” has the meaning assigned by section 115 of that Act;

“occupying tenant” has the meaning assigned by section 105(2)(a) above;

“owner”, in relation to a dwelling, means the person who—

(a) is for the time being entitled to receive from a lessee of the dwelling (or would be so entitled if the dwelling were let) a rent of not less than two-thirds of the net annual value of the dwelling; and

(b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord;

and, in relation to a house in multiple occupation, “owner” has the same meaning as in Part XI of the Housing Act 1985;

“owner’s interest” has the meaning assigned by section 104(2) above;

“participating landlord” has the meaning assigned by section 105(3) above;

“preliminary or ancillary services and charges” has the meaning assigned by section 102(3) above;

“prescribed” means prescribed by regulations made by the Secretary of State;

“the relevant works” has the meaning assigned by section 102(2)(a) above;

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant;

“tenants’ common parts application” has the meaning assigned by section 105(2)(c) above.

(2) Section 113 of the <sup>M26</sup>Housing Act 1985 (meaning of “members of a person’s family”) shall apply in determining whether a person is a member of another’s family for the purposes of this Part.

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*Status: Point in time view as at 01/04/1995.*

*Changes to legislation: Local Government and Housing Act 1989, Part VIII is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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**Textual Amendments**

**F3** Words in s. 138(1) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para.30**

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**Marginal Citations**

**M25** 1985 c. 68.

**M26** 1985 c. 68.

**Status:**

Point in time view as at 01/04/1995.

**Changes to legislation:**

Local Government and Housing Act 1989, Part VIII is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.