



Housing and Town Development (Scotland) Act 1957

1957 CHAPTER 38

PART II

PROVISION OF HOUSING ACCOMMODATION AND ASSOCIATED TOWN DEVELOPMENT IN RELIEF OF OVER-POPULATED DISTRICTS

Exporting and Receiving Authorities

8 Exporting and receiving authorities

- (1) References in this Part of this Act to an exporting authority are references to a local authority for a district which has a need for housing accommodation which cannot in the opinion of the Secretary of State be properly and fully met by the provision of housing accommodation within the district, who propose to make or have made arrangements for the meeting of that need, in whole or in part, by the provision of housing accommodation outside their district—
 - (a) by another local authority, or a development corporation, in pursuance of an overspill agreement, or
 - (b) by the Scottish Special Housing Association acting with the approval of the Secretary of State, or
 - (c) by themselves in exercise of powers conferred by the principal Act.
- (2) References in this Part of, and in the Second Schedule to, this Act to a receiving authority are (subject to subsection (7) of the next following section) references to the local authority for any district in which housing accommodation is, or may be, provided in pursuance of arrangements such as are mentioned in the foregoing subsection.

Overspill Agreements

9 Overspill agreements

- (1) Subject to the provisions of this section an exporting authority and a receiving authority may enter into an agreement (in this Part of this Act referred to as an overspill agreement) for the provision by the receiving authority, in the district of the receiving authority, of housing accommodation to meet, wholly or in part, the needs of the district of the exporting authority.
- (2) Proposals prepared and submitted to the Secretary of State by a local authority in discharge of their duty under section sixty of the principal Act may, in the case of a local authority who are an exporting authority, include proposals for the provision of housing accommodation in pursuance of an overspill agreement.
- (3) Subject to the provisions of this section an overspill agreement may be made on such terms as may be agreed between the parties thereto.
- (4) An overspill agreement shall provide for—
 - (a) the provision by the receiving authority of housing accommodation and the letting of that accommodation to persons approved for that purpose by the exporting and receiving authorities (hereinafter referred to as " approved persons "); and
 - (b) the payment by the exporting authority to the receiving authority in respect of each new house provided in pursuance of the agreement of a contribution at a rate of not less than fourteen pounds a year from the date of completion of the house, so however that—
 - (i) the contribution shall not be payable for any period during which the house is neither let to, nor available for letting to, an approved person, unless in substitution therefor there is let by the receiving authority to an approved person another house which otherwise would not be let in pursuance of the agreement, and
 - (ii) the obligation to make the contribution may be limited so as to cease and determine when the contribution has been paid for a period or periods amounting in the aggregate to such period as may be specified in the agreement, not being less than ten years.
- (5) An overspill agreement may provide for the making by the exporting authority to the receiving authority of such additional payments (whether by way of capital or recurrent grant or of loan or otherwise) as may be specified in the agreement, being payments towards the expenses of providing the housing accommodation to which the agreement relates or industrial or other accommodation or other facilities provided or to be provided in connection therewith, including the expenses of executing any works necessary for, or incidental to, such provision.
- (6) No overspill agreement shall have effect unless it has been approved by the Secretary of State.
- (7) An exporting authority may enter into an overspill agreement with a development corporation in like manner as with a receiving authority, and accordingly in this section references to a receiving authority shall be construed as including a development corporation.

- (8) The power of making orders conferred by section one hundred and twenty-seven of the principal Act shall include power to make an order providing, in relation to overspill agreements approved by the Secretary of State after the date of coming into operation of the order, for reducing the minimum amount of the annual contribution required by subsection (4) of this section to be made by exporting authorities.

Town Development Schemes

10 Town development schemes

- (1) Where a receiving authority consider it expedient that, in conjunction with any housing accommodation proposed to be provided in their district in pursuance of arrangements such as are mentioned in subsection (1) of section eight of this Act there should be carried out other development, including the provision of all or any of the following, namely, accommodation for the carrying on of industrial or other activities, appropriate public services, facilities for public worship, recreation and amenity and other requirements, they may, subject to the following provisions of this Part of this Act, make and submit to the Secretary of State a scheme containing proposals for that development related to the proposals as to the housing accommodation; and on approval by the Secretary of State any such scheme (hereinafter referred to as a "town development scheme") shall have effect for the purposes of this Part of this Act, and any duty which it proposes should be undertaken by the receiving or any public authority shall be a duty of that authority.
- (2) A town development scheme may be extended or amended by a subsequent town development scheme.
- (3) The provisions of the Second Schedule to this Act shall have effect with respect to the contents, submission and approval of, and other matters connected with, town development schemes.
- (4) The Secretary of State shall not approve any town development scheme unless he is satisfied—
- (a) that the execution of the scheme will be consistent with the proper planning of the area to which the scheme relates, and
 - (b) that if he were to withhold approval the development proposed therein, either by itself or along with commitments already undertaken or proposed to be undertaken by way of overspill agreements or other town development schemes by the receiving authority, would impose an unreasonable burden on the financial resources of the receiving authority.
- (5) Subject to the foregoing provisions of this section and to the provisions of the Second Schedule to this Act, the Secretary of State may approve a town development scheme without modification or with such modifications as appear to him to be expedient, so however that no such modification shall impose on any authority any duty other than a duty relating to any water supply or sewerage service required for the purposes of the scheme.
- (6) References in this Part of, and in the Second Schedule to, this Act to a receiving or exporting authority in relation to a town development scheme are references respectively to the receiving authority who promoted, or are promoting, the scheme and to the exporting authority to meet the needs of whose district the housing accommodation to which the scheme relates is, or is to be, provided.

11 Provision of water supplies and sewerage services under town development schemes

- (1) A town development scheme may provide that any water supply or sewerage service required for the purposes of the scheme shall be provided by such public authority as may be specified in the scheme, notwithstanding that that authority are not the authority who, apart from such provision of the scheme would be responsible for providing the supply or service (in this section referred to as the " authority generally responsible "): and in that case all functions conferred by any enactment or agreement on the authority generally responsible, so far as relating to the supply or service required, shall, subject to the next following section, be exercisable by the authority so specified, and not by the authority generally responsible.
- (2) Any public authority upon whom a function is conferred by a town development scheme by virtue of the last foregoing subsection shall have the like power to construct, operate and maintain, whether within or outside their district, any works necessary for the exercise of the function, as if the works were within and for the benefit of their district.

12 Allocation of expenditure on water supplies and sewerage services under town development schemes

- (1) Where a public authority, not being the receiving authority, incur expenditure in providing any water supply or sewerage service for the purposes of a town development scheme, they shall be entitled to recover an amount equal to that expenditure from the receiving authority only.
- (2) Notwithstanding any enactment or agreement to a contrary effect any expenditure incurred as aforesaid and the rateable valuation of the area for which the supply or service is provided shall be disregarded for the purposes of any allocation (whether under any enactment or under any agreement) between authorities of the expenses of providing a supply or service of the kind in question.
- (3) The Secretary of State may by order made by statutory instrument provide that this section shall cease to have effect in relation to any town development scheme or in relation to any supply or service provided for the purposes of any such scheme:

Provided that no order shall be made under this subsection without the consent of the receiving authority and the public authority providing the supply or service in question.
- (4) In this section " rateable valuation " in relation to any area has the same meaning as in the Valuation and Rating (Scotland) Act, 1956.

13 Powers as to acquisition and use of land for the purposes of town development schemes

- (1) Where as respects any land which is—
 - (a) comprised in an area to which a town development scheme relates, and
 - (b) not designated by an operative development plan within the meaning of the Town and Country Planning (Scotland) Act, 1947, as subject to compulsory acquisition,the Secretary of State is satisfied that it is necessary for the proper execution of the town development scheme that the land should be acquired by the receiving authority

under this section he may authorise that authority to acquire the land compulsorily in accordance with this section.

- (2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section and, accordingly, shall have effect as if this section had been in force immediately before the commencement of that Act.
- (3) This section shall, for the purposes of any enactment containing a reference to section thirty-five of the Town and Country Planning (Scotland) Act, 1947 (which relates to the acquisition of land for planning purposes) be treated as forming part of the said section thirty-five, and shall in particular be so treated for the purposes of subsection (1) of section thirty-six, subsection (1) of section thirty-seven, and subsection (2) of section forty-two of that Act, and of subsection (1) of section eighteen of the Town and Country Planning (Scotland) Act, 1945 ; and the reference to subsection (2) of the said section thirty-five in paragraph 8 of the Fifth Schedule to the said Act of 1945 shall include a reference to this section.
- (4) This section shall be construed as one with Part III of the Town and Country Planning (Scotland) Act, 1947 (which contains provisions as to the acquisition and disposal of land for planning purposes).
- (5) In relation to the acquisition of land under this section, and to any land acquired under this section or appropriated for any purpose for which land can be acquired under this section.—
 - (a) section nineteen of the Town and Country Planning (Scotland) Act, 1945, and the enactments referred to in this section shall have effect as if any reference therein to a local planning authority included a reference to a receiving authority who are not a local planning authority; and
 - (b) subsection (2) of section eighteen of the said Act of 1945 shall have effect as if for any reference therein to the best use of land or to the proper planning of the area of the authority there were substituted a reference to the proper execution of the town development scheme.

14 Exchequer contributions towards receiving authorities' expenses under town development schemes

- (1) Where in the execution of a town development scheme the receiving authority incur expenditure in connection with—
 - (a) the acquisition of land situated within the area to which the scheme relates or the clearing or preliminary development of land so situated, or
 - (b) the provision, for the purposes of the scheme, of any water supply or sewerage service,the Secretary of State shall pay to the receiving authority contributions towards that expenditure of such amounts, and payable in such cases, over such periods and subject to such conditions, as may be determined by or under regulations made by him, in accordance with section one hundred and seventy-three of the principal Act, with the consent of the Treasury.
- (2) Regulations made under this section may provide for the payment of contributions thereunder, in such cases and subject to such conditions as may be determined by or under the regulations, in respect of land appropriated by a receiving authority for any purpose approved by the Secretary of State in accordance with the regulations, as if

the land had been acquired for that purpose at a cost of such amount, and defrayed in such manner, as may be so determined.

- (3) Without prejudice to the generality of the foregoing provisions of this section, any regulations made under this section may provide—
- (a) for the inclusion in the expenditure incurred by a receiving authority towards which contributions under this section are to be paid, of any sums, or any part of any sums, paid by the authority in connection with any restriction imposed by or under any enactment on the development or use of any land to which the scheme relates (whether by way of compensation or by way of contribution towards damage or expense incurred in consequence of the restriction);
 - (b) for the calculation of contributions payable under this section by reference to the amount of the annual costs incurred or treated as being incurred by receiving authorities in respect of the borrowing of money to defray expenditure towards which the contributions are made, or by reference to the excess of such annual costs over such receipts of those authorities, or over the annual value of such receipts, as may be prescribed by the regulations.
- (4) In this section the expression " preliminary development in relation to land situated within the area to which a town development scheme relates, means the carrying out of any work determined in accordance with the regulations to be work preparatory to the development of the land for the purposes of executing the scheme, or work comprised in the initial stages of such development.

General

15 Extension of powers for the purposes of overspill agreements or town development schemes

- (1) For the purposes of executing any overspill agreement or town development scheme the receiving authority or development corporation may—
- (a) take, whether within or outside their district, any action which, apart from this section, they could lawfully take if it were for the benefit of their district, notwithstanding that it is not, or may not be, for the benefit thereof and
 - (b) appoint the exporting authority to act as their agents for the purpose of taking any action relating to the functions of the receiving authority or corporation under the agreement or scheme ;

and any exporting authority appointed as mentioned in paragraph (b) of this section may themselves incur expenditure in taking any action to which the appointment relates and shall defray any expenditure so incurred as if it were incurred within and for the benefit of their own district.

- (2) In relation to any town development scheme the foregoing subsection shall apply to any public authority (other than the receiving authority) who have a duty under the scheme to provide any water supply or sewerage service as it applies to the receiving authority, with, in the case of a local water authority, the substitution, for the reference to the district of the receiving authority, of a reference to the area within the limits of supply of the local water authority.
- (3) In this section any reference to action relating to the functions of the receiving authority or development corporation under any overspill agreement or town development scheme includes a reference to any survey or preparatory work

required to determine the practicability of any proposed overspill agreement or town development scheme.

16 Provision for failure to carry out duties under overspill agreements or town development schemes

- (1) If a complaint is made to the Secretary of State that any local or public authority have failed to do properly anything which they are required to do by any overspill agreement or town development scheme, or if the Secretary of State is of opinion that an investigation should be made as to whether any such authority have so failed, he may cause a local inquiry to be held into the matter.
- (2) If after such a local inquiry the Secretary of State is satisfied that there has been such a failure on the part of the authority in question, he may, after giving the authority an opportunity of making representations, make an order declaring the authority to be in default and requiring them for the purpose of remedying the default to take within such period as may be specified in the order such action as may be so specified.
- (3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the period specified therein for compliance with that requirement the Secretary of State may—
 - (a) himself take, or cause to be taken, the action to which the requirement relates, or
 - (b) make an application to the Court of Session under section ninety-one of the Court of Session Act, 1868, which section shall have effect as if the said action were a statutory duty of the authority.
- (4) Section one hundred and seventy of the principal Act (which relates to the exercise by the Secretary of State of powers of a local authority) shall apply—
 - (a) to any expenses incurred by the Secretary of State in taking action, or causing action to be taken, by virtue of this section, as it applies to the expenses referred to in that section, and
 - (b) to any property, debts or liabilities acquired or incurred by him by virtue of this section, as it applies to the property, debts and liabilities referred to in that section.
- (5) Section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which contains provisions as to local inquiries) shall apply to any local inquiry held under this section.
- (6) This section shall be without prejudice to any other enactment, or any provision in any agreement, under which the performance of the duties mentioned in this section may be enforced.

17 Modification of s. 18 (5) of 8 and 9 Geo. 6. c. 33 in relation to exporting authorities

Where by subsection (5) of section eighteen of the Town and Country Planning (Scotland) Act, 1945, a local planning authority, being an exporting authority, in exercising their power under that section of disposing of land comprised in an area defined by a development plan as an area of comprehensive development, and the Secretary of State in exercising his power of consenting to such disposal, are obliged to secure to any person so far as may be practicable an opportunity to obtain

accommodation on that land, the obligation shall be treated as discharged if there is afforded to the person an opportunity to obtain, on land in, or in the vicinity of and readily accessible to, an area where housing accommodation has been, or is being, provided in pursuance of any such arrangements as are mentioned in subsection (1) of section eight of this Act (being arrangements to which the said local planning authority are a party), accommodation suitable to his reasonable requirements on terms such as are mentioned in the said subsection (5).

18 Saving for necessity to obtain planning permission for development for the purposes of Part II

Nothing in this Part of this Act or in any authorisation given thereunder shall be taken to authorise the carrying out of any development not authorised by planning permission granted or deemed to have been granted under the Town and Country Planning (Scotland) Act, 1947.

19 Interpretation of Part II

(1) In this Part of, and in the Second Schedule to, this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, 1 that is to say—

" functions " includes powers and duties ;

" public authority " means any authority who are either—

- (a) a local water authority within the meaning of subsection (4) of section five of the Water (Scotland) Act, 1946, or
- (b) an authority charged by virtue of any enactment other than this Act with the duty of providing any sewerage service, or a combination of such authorities;

" overspill agreement " has the meaning assigned to it by subsection (1) of section nine of this Act;

" sewerage service " includes sewage disposal service ;

" town development scheme " has the meaning assigned to it by subsection (1) of section ten of this Act.

(2) In this Part of, and in the Second Schedule to, this Act—

- (a) any reference to water supply includes a reference to the supply of water in bulk under section nineteen of the Water (Scotland) Act, 1946 ;
- (b) any reference to the district of a development corporation shall be construed as a reference to the area designated under the New Towns Act, 1946, as the site of the new town for the purposes of which the development corporation has been established.