

HOUSING (SCOTLAND) ACT 2001

EXPLANATORY NOTES

BACKGROUND AND OVERVIEW

Part 5 – Strategic Housing Functions

Section 88: Statement on Fuel Poverty

132. This section places a requirement on Scottish Ministers to publish a statement about the measures they and local authorities have taken and will be taking to ensure as far as is practicable that people do not live in fuel poverty. *Subsection (2)* specifies that the statement must include energy efficient measures. *Subsections (3) and (4)* specify that the statement must set a target date (a maximum of 15 years) and interim targets and provides for the statement to be reviewed, modified and republished. *Subsection (5)* makes provision for Scottish Ministers to consult interested persons before preparing or modifying the statement. *Subsection (6)* specifies that Scottish Ministers must at least once every 4 years publish a report on the measures detailed in the statement which have been completed.

Section 89: Local housing strategies

133. This section entitles the Scottish Ministers to require a local authority to carry out an assessment of housing needs and provision, and the provision of related services, within the local authority's area for a given period. *Subsection (2)* specifies core factors that a local authority must include within its assessment; there is provision at *subsection (2) (e)* for this to include such other matters as Ministers may specify at the time of requiring an assessment.
134. In addition, a local authority is required to prepare, and submit to Ministers, a local housing strategy. The strategy must cover the exercise of the local authority's functions both on its own and in co-operation with registered social landlords and other bodies in its area with a view to ensuring the economic, efficient and effective provision of housing and related services in a way which, so far as is reasonably practicable, ensures that people do not live in fuel poverty. *Subsection (7)* requires that the strategy must also state how the local authority will comply with its duty to exercise its functions in a way which encourages equal opportunities and observes equal opportunity requirements. Provision is made for local authorities to produce, with the agreement of Ministers, joint strategies. *Subsection (6)* makes provision for Ministers to specify such matters as: the period to be covered by the strategy; the matters to be included in the strategy; the procedures and consultation processes to be followed in preparing the strategy; the form and manner of the production of the strategy and its accompanying documentation; and the time by which it must be submitted.
135. The Scottish Ministers must make such requirements of local authorities as are necessary to ensure that every local government area is included in a local housing strategy. The section places a duty upon local authorities to keep their strategy under review and provide information concerning the implementation of their strategies to

Ministers upon their request; it also allows for a local authority to modify and resubmit a strategy.

Section 90: Grants for housing purposes

136. This section gives the Scottish Ministers powers to make grants to local authorities for housing purposes of such amount, and subject to such terms and conditions, as they see fit. This grant is intended to allow local authorities to fund registered social landlords and other bodies and existing arrangements will continue for funding expenditure on local authorities own stock. It will be possible, however, for grants to be paid in connection with relevant housing-related debt.
137. *Subsection (3)* establishes that grant payments in respect of housing related debt will be confined to the debt which would otherwise have been charged to the Housing Revenue Account (HRA) under the terms of *paragraph 3(a) of Schedule 15* to the 1987 Act. The grant may be towards some or all of the following: the servicing of debt remaining on the HRA following a partial stock transfer; repayments in relation to servicing of debt following a whole stock transfer; debt repayments in respect of breakage costs resulting from the early repayment of debt; and the repayment of principal. Following a whole stock transfer an order, under section 94(2), will remove the duty to keep a HRA.
138. *Subsection (5)* allows a local authority to enter into a management or agency agreement with the Scottish Ministers to enable Ministers to exercise the authority's functions in relation to some or all of the sums received by the authority under this section.

Section 91: Grants for housing support services

139. This section enables the Scottish Ministers to pay grants for housing support services to local authorities. Grants can be of such amount and subject to such terms and conditions as Ministers see fit. Provision is also made for Ministers to make regulations prescribing the types of service, and categories of accommodation, eligible for grant.

Section 92: Assistance for housing purposes

140. This section provides local authorities with the powers necessary to provide assistance, financial or otherwise, to registered social landlords and other persons for housing purposes and for preventing or alleviating homelessness, and to individuals for constructing and maintaining housing. Where assistance is provided by means of guarantees or indemnities, or from Housing Revenue Account resources, the authority needs to secure the consent of the Scottish Ministers. Assistance is also subject to regulations and guidance made by Ministers under section 93.

Section 93: Assistance for housing purposes: further provision

141. This section allows the Scottish Ministers to set out in regulations and in guidance provisions governing assistance from local authorities to registered social landlords and other persons (including individuals), and provides powers for local authorities to set terms and conditions on the grants that they themselves make. *Subsection (5)* allows Ministers to amend earlier legislation so as to ensure that assistance which could be given under this section does not conflict with or duplicate existing powers.

Section 94: Alteration of housing finance arrangements

142. This section enables the Scottish Ministers to change the housing finance arrangements of a local authority.
143. Where local authorities transfer ownership of their housing to another body, it will no longer be appropriate to retain the requirement on Ministers to estimate Housing Support Grant in respect of that authority. Similarly, if an authority's housing stock is transferred there is no need for them to continue to operate a Housing Revenue Account

(HRA) under the terms of section 203 of the 1987 Act. *Subsections (1) and (2)* therefore enable Ministers to disapply, by order, the relevant sections of the 1987 Act.

144. *Subsection (3)* establishes that, where a local authority holds land formerly held on the HRA, an order repealing the duty to keep a HRA under *subsection (2)* may also make provision about the holding of, and accounting for, such land. *Subsection (4)* directs that a local authority disposing of such land cannot do so for other than the best price reasonably obtainable, unless Ministers consent to alternative arrangements. Where such former HRA land is disposed of, *subsections (5) and (6)* allow for Ministers to direct that any receipt from the sale of the land be used to reduce any outstanding former HRA debt, or for some other housing related function.

Section 95: Meaning of “fuel poverty”

145. This section sets a definition of a person living in fuel poverty and allows Scottish Ministers to make regulations to set out what the terms used in that definition mean (for example, what is meant by “ a low income”). This section makes provision for consultation with appropriate bodies before making the regulations.