



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 2

#### SCHEME OF ASSISTANCE FOR HOUSING PURPOSES

##### *Grants and loans: conditions*

#### **83 Conditions applicable on completion of work**

- (1) Conditions A to D apply for the period mentioned in subsection (3) with respect to any land on or premises in which work to which an approved grant or loan relates is carried out.
- (2) But conditions A and B do not apply where the work is carried out on land or in any premises which is not a house (unless that land is or, as the case may be, those premises are converted by the work into a house).
- (3) That period is the period—
  - (a) beginning with the date on which the work is completed (which cannot be before the house to which the grant or loan relates becomes, in the authority's opinion, fit for occupation), and
  - (b) ending—
    - (i) in the case of a grant, 10 years after that date,
    - (ii) in the case of a subsidised loan, 10 years after that date or on the date on which the repayment element of the loan and any interest or other charge on it is repaid in full, whichever is the later,
    - (iii) in the case of a standard loan, on the date on which the loan and any interest or other charge on it is repaid in full.
- (4) Condition A is that the house must be used as a private dwelling; but that does not prevent the use of part of the house as a shop or office or for business, trade or professional purposes.
- (5) Condition B is that the house must not be occupied by the owner or a member of the owner's family (within the meaning of section 83 of the 1987 Act) except as that person's only or main residence.

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- (6) Condition C is that the owner of the land or premises must take all practicable steps to keep it in a good state of repair.
- (7) Condition D is that the owner of the land or premises must, if required to do so by the local authority, certify that the conditions A to C are, in so far as they apply, being observed.

#### **84 Registration of conditions**

- (1) On paying a grant or loan or, in the case of a grant or loan payable by instalments, the final instalment, the local authority must register notice of that fact in the appropriate land register.
- (2) Subsection (1) does not apply where the applicant for the grant or loan was a tenant-at-will (within the meaning of section 20(8) of the Land Registration (Scotland) Act 1979 (c. 33)) unless the applicant has, since applying, acquired the landlord's interest in the tenancy.
- (3) But in that case the local authority must keep a written record.
- (4) A notice under subsection (1) and a written record under subsection (3) must specify—
  - (a) the conditions mentioned in section 83 which apply with respect to the land or premises,
  - (b) the period for which they are to be complied with, and
  - (c) the provisions of section 86 under which, if the conditions are breached, the owner becomes liable to repay the amount repayable by virtue of that section.
- (5) The applicant to whom the grant or loan is paid must pay to the local authority the amount of the expenses of registering the notice under subsection (1).

#### **85 Discharge of conditions**

- (1) At any time when the conditions mentioned in section 83 require to be complied with in relation to any land or premises, the owner or a creditor in a standard security with a right to sell may pay to the local authority the sum which would be payable by virtue of section 86 in the event of a breach of those conditions.
- (2) The reference in subsection (1) to a “right to sell” is a reference to the right of the creditor to sell the land or premises under—
  - (a) section 20(2) or 23(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35), or
  - (b) a warrant granted under section 24(1) of that Act.
- (3) On the making of the payment observance of those conditions ceases to be required.
- (4) Where, following a breach of any of those conditions, the local authority demands payment under section 86(1), observance of the conditions mentioned in section 83 ceases to be required.
- (5) On the making of a payment referred to in subsection (3) or a demand for payment referred to in subsection (4) the authority must—
  - (a) if a notice was registered under subsection (1) of section 84, register a further notice in the appropriate land register,

- (b) if a written record was kept under subsection (3) of that section, amend that record,  
specifying that observance of the conditions is no longer required.
- (6) The owner for the time being of the land or premises must pay to the local authority the amount of the expenses of registering the notice under subsection (5).
- (7) A sum paid under subsection (1) by a creditor in a standard security forms part of the sum secured by the standard security.

## **86 Breach of conditions of grant or loan**

- (1) In the event of a breach of any of the conditions mentioned in section 83 which apply to any land or premises, the local authority must, subject to subsections (2) to (4), demand from the owner for the time being of the land or premises payment of the sums specified in section 87.
- (2) If the authority is satisfied that the breach of any condition can be remedied it may, with the consent of the Scottish Ministers and subject to any conditions imposed by them, suspend the operation of subsection (1) for such period as they consider necessary to enable the breach to be remedied.
- (3) If the breach is remedied within that period the authority may direct that the breach is to be disregarded for the purposes of this section.
- (4) If the authority—
  - (a) considers that the breach cannot be remedied, but
  - (b) is satisfied that it was not due to the act, default or connivance of the owner for the time being of the land or premises,it may, with the consent of the Scottish Ministers and subject to any conditions approved by them, direct that the breach is to be disregarded for the purposes of this section.
- (5) On the application of the authority the sheriff within whose jurisdiction the land is, or premises are, situated may, whether or not any other relief is claimed, grant an interdict restraining a breach or apprehended breach of any of those conditions.

## **87 Calculation of amount to be paid on breach of conditions**

- (1) In the case of a grant, the sums mentioned in section 86(1) are—
  - (a) the whole amount of the grant in relation to the work in question, and
  - (b) interest on the grant accruing from the date of its payment or, where it was paid by instalments, from the date of payment of the final instalment to the date on which the amount mentioned in paragraph (a) is paid.
- (2) In the case of a standard loan, those sums are—
  - (a) the whole amount of the loan in relation to the work in question, and
  - (b) any interest or other charge on the loan which has accrued to the date on which the amount mentioned in paragraph (a) is paid and which remains outstanding on that date.
- (3) In the case of a subsidised loan, those sums are—
  - (a) the whole amount of—

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- (i) the repayment element, and
    - (ii) the interest free element,of the loan in relation to the work in question,
  - (b) any interest or other charge on the repayment element which has accrued to the date on which the amount mentioned in paragraph (a)(i) is paid and which remains outstanding on that date, and
  - (c) any interest or other charge on the interest free element, for which the applicant would have been liable had that element been treated as forming part of the repayment element and which would have accrued to the date on which the amount mentioned in paragraph (a)(ii) is paid.
- (4) The reference to “interest” in subsection (1)(b) is to compound interest at such reasonable rate as the local authority determines and with yearly rests.